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LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2010

IN THE _____

BILL NO. _____

BY _____

AN ACT

1 RELATING TO THE SOIL CONSERVATION DISTRICT LAW; AMENDING SECTION 22-2716,
2 IDAHO CODE, AMENDING SECTION 22-2717, IDAHO CODE, REPEALING SECTION
3 22-2718, IDAHO CODE, AMENDING CHAPTER 27, TITLE 22, IDAHO CODE, BY THE
4 ADDITION OF A NEW SECTION 22-2718, IDAHO CODE, AMENDING CHAPTER 27,
5 TITLE 22, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 22-2718, IDAHO
6 CODE, AMENDING CHAPTER 27, TITLE 22, IDAHO CODE, BY THE ADDITION OF
7 A NEW SECTION 22-2718A, IDAHO CODE, AMENDING SECTION 22-2719, IDAHO
8 CODE, AMENDING SECTION 22-2720, IDAHO CODE, AMENDING SECTION 22-2721,
9 IDAHO CODE, AMENDING SECTION 22-2723, IDAHO CODE, AMENDING SECTION
10 22-2724, IDAHO CODE, AMENDING SECTION 22-2725, IDAHO CODE, AMENDING
11 SECTION 22-2727, IDAHO CODE, AMENDING SECTION 22-2730, IDAHO CODE,
12 AMENDING SECTION 22-2731, IDAHO CODE, AMENDING SECTION 22-2732, IDAHO
13 CODE, AMENDING SECTION 22-2733, IDAHO CODE, AMENDING SECTION 22-2734,
14 IDAHO CODE, AMENDING SECTION 22-2735, IDAHO CODE, AMENDING SECTION
15 22-5201, IDAHO CODE, AMENDING SECTION 22-5202, IDAHO CODE, AMENDING
16 SECTION 22-5203, IDAHO CODE, AMENDING SECTION 22-5204, IDAHO CODE,
17 AMENDING SECTION 22-5205, IDAHO CODE, AMENDING SECTION 22-5206, IDAHO
18 CODE, AMENDING SECTION 36-2404, IDAHO CODE, AMENDING SECTION 39-3602,
19 IDAHO CODE, AMENDING SECTION 39-6407, IDAHO CODE, AMENDING SECTION
20 39-6609, IDAHO CODE, AMENDING SECTION 42-3703, IDAHO CODE, AMENDING
21 SECTION 42-3705, IDAHO CODE, AMENDING SECTION 42-3706, IDAHO CODE,
22 AMENDING SECTION 42-3707, IDAHO CODE, AMENDING SECTION 42-3717, IDAHO
23 CODE, AMENDING SECTION 67-818, IDAHO CODE, AND PROVIDING A TRANSFER OF
24 PROPERTY AND OBLIGATION.
25

26 Be It Enacted by the Legislature of the State of Idaho:

27 SECTION 1. That Section 22-2716, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 22-2716. LEGISLATIVE DETERMINATION AND DECLARATION OF POLICY. (1) It
30 is the determination of the state of Idaho that:

31 (a) Forest lands, rangelands and agricultural lands maintained in
32 a healthy condition are a legitimate land use contributing to the
33 economic, social and environmental well-being of the state and its
34 citizens;

35 (b) It is essential to the general welfare of all citizens of this state
36 that multiple use conservation improvements be implemented on a broader
37 scale on both public and private lands;

38 (c) Due to numerous economic and practical issues relating to the
39 improvements of individual tracts of land, both public and private
40 resource conservation improvements, projects and programs of the
41 nature contemplated by this chapter would enhance the economic
42 productivity and environmental quality of the state; and

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1 (d) It is sound public policy for the state of Idaho to provide
2 for accounts to finance loans, grants, cost-share funding and tax
3 incentives to the end that forest lands, rangelands and agricultural
4 lands within the state can provide the greatest benefit to all
5 concerned.

6 (2) It is the intent of the state of Idaho to provide a means by which
7 funds, including federal, state, private and other moneys, can be obtained
8 and utilized for the accelerated development of water quality programs,
9 multiple use forest land, rangeland, and agricultural land conservation
10 improvements in the state, and to provide that these improvements, projects
11 and programs be locally planned, coordinated and implemented through
12 statutory provisions pertaining to soil conservation districts, the
13 ~~state soil conservation commission~~ division of resource conservation,
14 appropriate state and federal agencies, and the owners and operators of
15 privately owned lands.

16 (3) It is in the best interest of the state of Idaho:

17 (a) To emphasize nonregulatory, science-based technical assistance,
18 incentive-based financial programs and informational and educational
19 programs at the local level;

20 (b) To maintain, preserve, conserve and rehabilitate forest lands,
21 rangelands and agricultural lands to assure the protection and
22 productivity of the state's natural resources;

23 (c) That soil conservation districts, as governmental subdivisions,
24 ~~and the state soil conservation commission, as a state agency,~~ are the
25 primary entities to provide assistance to private landowners and land
26 users in the conservation, sustainment, improvement and enhancement of
27 Idaho's natural resources;

28 (d) To establish policies for cooperative working relationships
29 between local soil conservation districts, the ~~state soil conservation~~
30 ~~commission~~ division of resource conservation, local, state and federal
31 agencies and public and private groups to plan, develop and implement
32 conservation goals and initiatives with local landowners and land
33 users;

34 (e) That soil conservation districts and the ~~state soil conservation~~
35 ~~commission~~ division of resource conservation lead nonregulatory
36 efforts to conserve, sustain, improve and enhance Idaho's private and
37 state lands and to provide assistance to private landowners and land
38 users to plan, develop and implement conservation plans addressing
39 soil, water, air, plant and animal resources. Technical, financial and
40 educational assistance to landowners and land users is vital to that
41 effort; and

42 (f) That the ~~state soil conservation commission~~ division of resource
43 conservation provide support to soil conservation districts in the wise
44 use and enhancement of soil, water and related resources.

45 (4) It is the policy of the state of Idaho:

46 (a) To provide appropriate tax policies and program mechanisms that
47 provide incentives for private landowners and land users to voluntarily
48 manage forest lands, rangelands and agricultural lands in a manner that
49 promotes conservation;

(b) That the health, safety and general welfare of the people of this state can be greatly enhanced by providing nonregulatory opportunities to landowners and land users in order to increase the ability of such landowners and land users to readily understand and plan for local, state and federal natural resource requirements and opportunities through technological innovation and processes;

(c) To enhance natural resource productivity in order to promote a strong natural resource sector, reduce unintended adverse effects of resource development and use, protect individual and community health and safety and encourage stewardship;

(d) That conservation plan implementation shall include best management practices implemented according to the standards and specifications developed by the United States department of agriculture natural resources conservation service (NRCS) as designated by the agricultural pollution abatement plan. Those practices shall include, but not be limited to: irrigation water management systems; prescribed grazing; forest stand improvement; establishment of grass, trees and shrubs to reduce wind and water erosion; promotion of sound community development; protection of water and air resources from agricultural nonpoint sources of impairment; maintenance, restoration or enhancement of wetlands and fish and wildlife habitat; protection of upstream watersheds from flood risk; and protection of watersheds from the effects of chronic water shortages and risks; and

(e) That all conservation programs authorized pursuant to this chapter shall deliver services fairly and equitably, strengthen the conservation district delivery system, provide timely science-based information and provide conservation information and educational programs and experiences to youth and adults.

SECTION 2. That Section 22-2717, Idaho Code, be, and the same is hereby amended to read as follows:

22-2717. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Administrator" means the administrator for the division of resource conservation.

(2) "Agency of this state" includes the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(3) "Agricultural pollution abatement plan" or "ag plan" means the document developed by the ~~state soil conservation commission~~ division of resource conservation and approved by the ~~commission~~ division and the department of environmental quality, that provides appropriate technical, programmatic, informational and educational processes, guidelines and policies for addressing agricultural pollution.

(4) "Agriculture" or "department of agriculture" means an executive department of state government created in section 22-101, Idaho Code.

(5) "Best management practices" or "BMPs" means practices, techniques, or measures developed or identified by the designated agency and

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1 identified in the state water quality management plan which are determined
2 to be a cost-effective and practicable means of preventing or reducing
3 pollutants generated from nonpoint sources to a level compatible with water
4 quality goals.

5 ~~(5) "Commission" or "state soil conservation commission" means the~~
6 ~~agency created in section 22-2718, Idaho Code.~~

7 (6) "Conservation plan" means a description of identified natural
8 resource issues and a specific schedule of implementation of component
9 practices necessary to resolve those specific resource issues as agreed upon
10 by the landowner.

11 (7) "Designated agency" is as defined in section 39-3602, Idaho Code.

12 (8) "Director" means the director of the Idaho department of
13 agriculture.

14 (9) "District," "conservation district," "soil conservation
15 district," or "soil and water conservation district" means a governmental
16 subdivision(s) of this state, and a public body corporate and politic,
17 organized in accordance with the provisions of this act chapter, for the
18 purposes, with the powers, and subject to the restrictions hereinafter set
19 forth.

20 (10) "Division of resource conservation" or "division" means the
21 agency established in section 22-2718, Idaho Code.

22 (911) "Due notice" means notice published at least twice, with an
23 interval of at least seven (7) days between the two (2) publication dates,
24 in a newspaper or other publication of general circulation within the
25 appropriate area, or if no such publication of general circulation be
26 available, by posting at a reasonable number of conspicuous places within
27 the appropriate area, such posting to include, where possible, posting at
28 public places where it may be customary to post notices concerning county or
29 municipal affairs generally. At any hearing held pursuant to such notice,
30 at the time and place designated in such notice, adjournment may be made
31 from time to time without the necessity of renewing such notice for such
32 adjournment dates.

33 (102) "Eligible applicant" means an individual agricultural owner,
34 operator, partnership, corporation, conservation district, irrigation
35 district, canal company or other agricultural or grazing interest.

36 (113) "Government" or "governmental" includes the government of this
37 state, the government of the United States, and any subdivisions, agency,
38 or instrumentality, corporate or otherwise, of either of them.

39 ~~(12) "Idaho association of soil conservation districts (IASCD)" means~~
40 ~~an incorporated, nongovernmental entity representing all soil conservation~~
41 ~~districts in Idaho.~~

42 (134) "Idaho OnePlan" means a computer-based system for improving
43 efficiency and effectiveness of natural resource planning by landowners and
44 land users.

45 (145) "Landowner" or "owner" includes any person, firm, or corporation
46 who shall hold title to any lands lying within a district organized under the
47 provisions of this chapter. A buyer on contract, who is the occupier of land,
48 shall be construed as landowner.

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1 (156) "Land user" means any entity with a lease, permit or similar
2 business agreement with a landowner to implement, manage or utilize such
3 land for activities related to use of the land.

4 (167) "Natural resources conservation service" or "NRCS" means the
5 agency governed by the provisions of 16 U.S.C. section 590a through 590d and
6 590f.

7 (178) "Nominating petition" means a petition filed under the provisions
8 of section 22-2721, Idaho Code, to nominate candidates for the office of
9 supervisor of a soil conservation district.

10 (189) "Participant" means an individual agricultural owner, operator,
11 partnership, private corporation, conservation district, irrigation
12 district, canal company, or other agricultural or grazing interest
13 approved by the ~~commission~~ division or an individual agricultural owner,
14 operator, partnership, or private corporation approved for implementation
15 of conservation improvements, projects, or the water quality program for
16 agriculture.

17 (1920) "Petition" means a petition filed under the provisions of
18 subsection A. (1) of section 22-2719, Idaho Code, for the creation of a
19 district.

20 (201) "Project sponsor" means a conservation district, irrigation
21 district, canal company, or other agricultural or grazing interest, as
22 determined appropriate by the ~~commission~~ division, that enters into a
23 conservation improvement or water quality project agreement with the
24 ~~commission~~ division.

25 (212) "Qualified elector" means any person who is qualified to vote
26 pursuant to the requirements of section 34-104, Idaho Code.

27 (223) "Resource conservation advisory board" or "board" means the body
28 established in section 22-2718A, Idaho Code.

29 (224) "Riparian land" means the beds of streams, the adjacent
30 vegetation communities and the land thereunder, which are predominately
31 influenced by their association with water and are privately owned.

32 (235) "Specifications" means the materials, operations and procedures
33 necessary to obtain the desired standards of construction and installation.

34 (246) "Standards" means the minimum limits of technical excellence of a
35 component practice for its planning, design and construction.

36 (257) "State" means the state of Idaho.

37 (268) "Supervisor" means one (1) of the members of the governing body of
38 a district elected or appointed in accordance with the provisions of this ~~act~~
39 chapter.

40 (279) "Total maximum daily load" is as defined in section 39-3602, Idaho
41 Code.

42 (2830) "United States" or "agencies of the United States" includes
43 the United States of America, the natural resources conservation service
44 of the United States department of agriculture, and any other agency or
45 instrumentality, corporate or otherwise, of the United States of America.

46 SECTION 3. That Section 22-2718, Idaho Code, be, and the same is hereby
47 repealed.

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1 SECTION 4. That Chapter 27, Title 22, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and
3 designated as Section 22-2718, Idaho Code, and to read as follows:

4 22-2718. DIVISION OF RESOURCE CONSERVATION. (1) There is hereby
5 established in the Idaho department of agriculture the division of resource
6 conservation which shall be a nonregulatory agency. The powers in this
7 chapter conferred upon the division shall be exercised by the director of
8 the Idaho department of agriculture or the administrator of the division of
9 resource conservation and such officers and employees as the administrator,
10 with the approval of the director, may authorize. The administrator shall be
11 appointed by the director and, in addition to duties set forth in Idaho Code,
12 the administrator shall perform such other duties as the director may assign
13 to him.

14 (2) The division of resource conservation shall have the following
15 responsibilities:

16 (a) To offer such assistance as may be appropriate to the supervisors of
17 soil conservation districts in the carrying out of any of their powers
18 and programs.

19 (b) To keep the supervisors of each of the several soil conservation
20 districts informed of the activities and experience of all other
21 districts, and to facilitate an interchange of advice and experience
22 between such districts and cooperation between them.

23 (c) To coordinate the progress of the several soil conservation
24 districts so far as this may be done by advice and consultation.

25 (d) To secure the cooperation and assistance of the United States and
26 any of its agencies, and of agencies of this state, in the work of such
27 districts.

28 (e) To disseminate information throughout the state concerning the
29 activities and programs of the soil conservation districts in areas
30 where their organization is desirable.

31 (f) To provide for the establishment and encouragement of the "Idaho
32 OnePlan" as a primary computer-based conservation planning process for
33 all natural resource concerns. Establishment and encouragement will
34 be accomplished through an executive group and steering committee both
35 containing private, state and federal representation. The information
36 provided by those using the "Idaho OnePlan" shall be deemed to be trade
37 secrets, production records or other proprietary information and shall
38 be kept confidential and shall be exempt from disclosure pursuant to
39 section 9-340D, Idaho Code.

40 (3) In addition to other functions and duties of soil conservation
41 districts and the division provided in this chapter, the division shall have
42 the following additional functions and duties:

43 (a) The division shall conduct, in cooperation with appropriate
44 federal and state agencies and the owners and operators of privately
45 owned forest lands, rangelands and agricultural lands in this state,
46 conservation improvements on or in respect to these lands for the
47 purposes of implementing conservation systems to conserve and improve
48 natural resource conditions;

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1 (b) The division shall assist and advise soil conservation districts
2 and other entities in implementing the conservation improvements,
3 projects and the water quality program for agriculture. To the extent
4 that there are available general funds, the division shall provide for
5 grants and cost-share opportunities and, as legislatively designated,
6 utilize the resource conservation and rangeland development fund
7 for loans for conservation improvements. Provided however, that the
8 division shall determine whether general or resource conservation
9 and rangeland development funds are available before approving any
10 conservation improvements, projects and cost-share opportunities and,
11 after having made such determination, shall enter into the necessary
12 contracts for implementation;

13 (c) The division shall be the entity responsible for the administration
14 of funds accruing to the resource conservation and rangeland
15 development fund and for all general funds appropriated as a separate
16 and distinct action of the legislature to implement the powers,
17 functions and duties of soil conservation districts and the division;
18 and

19 (d) The Idaho department of agriculture shall promulgate such rules as
20 are necessary to carry out the purposes of this chapter.

21 SECTION 5. That Chapter 27, Title 22, Idaho Code, be, and the same is
22 hereby amended by the addition thereto of a NEW SECTION, to be known and
23 designated as Section 22-2718A, Idaho Code, and to read as follows:

24 22-2718A. RESOURCE CONSERVATION ADVISORY BOARD. (1) In order to
25 maintain close contact between the department and the soil conservation
26 districts, there is hereby established within the division of resource
27 conservation a resource conservation advisory board. The board shall
28 consist of seven (7) members. The director of the department of agriculture
29 shall appoint six (6) of the board members from a list of three (3) names
30 for each vacancy submitted by the soil conservation districts. The
31 administrator shall serve as chairperson of the board. All board members
32 shall have the right to vote. Member terms of office shall be staggered and
33 such terms and the manner in which vacancies are filled shall be as provided
34 in department rule. Notwithstanding the member terms of office provisions
35 provided in this subsection or department rule, all board members shall
36 serve at the pleasure of the director. The six (6) appointed board members
37 shall be compensated as provided in section 59-509(h), Idaho Code.

38 (2) The board shall meet at the call of the chairperson or of the
39 director. A majority of the members present at any meeting shall constitute
40 a quorum and a majority vote of the quorum at any meeting shall constitute an
41 official act of the board.

42 (3) The board shall advise and counsel with the department in the
43 administration of the provisions of sections 22-2727 and 22-2730 through
44 22-2732, Idaho Code, and shall perform such other duties as the director may
45 assign to it.

46 SECTION 6. That Section 22-2719, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 22-2719. CREATION OF SOIL CONSERVATION DISTRICTS. A- (1) Any
2 twenty-five (25) owners of land lying within the limits of the territory
3 proposed to be organized into a district may file a petition with the ~~state~~
4 ~~soil conservation commission~~ division of resource conservation asking that
5 a soil conservation district be organized to function in the territory
6 described in the petition. Such petition shall set forth:

7 (1a) The proposed name of said district;

8 (2b) That there is need, in the interest of the public health, safety,
9 and welfare, for a soil conservation district to function in the
10 territory described in the petition;

11 (3c) A description of the territory proposed to be organized as a
12 district, which description shall not be required to be given by metes
13 and bounds or by legal subdivisions, but shall be deemed sufficient if
14 generally accurate;

15 (4d) A request that the ~~state soil conservation commission~~ division
16 duly define the boundaries for such district; that a referendum be held
17 within the territory so defined on the question of the creation of a
18 soil conservation district in such territory; and that the ~~commission~~
19 division determine that such a district be created.

20 Where more than one (1) petition is filed covering parts of the same
21 territory, the ~~state soil conservation commission~~ division may consolidate
22 all of any such petitions.

23 B- (2) Within thirty (30) days after such petition has been filed
24 with the ~~state soil conservation commission~~ division, it shall cause
25 due notice to be given of a proposed hearing upon the question of the
26 desirability and necessity, in the interest of the public health, safety,
27 and welfare, of the creation of such district, upon the question of the
28 appropriate boundaries to be assigned to such district, upon the propriety
29 of the petition and other proceedings taken under this chapter, and upon
30 all questions relevant to such inquiries. All owners of land within the
31 limits of the territory described in the petition, and of lands within any
32 territory considered for addition to such described territory, and all other
33 interested parties, shall have the right to attend such hearings and to
34 be heard. If it shall appear upon the hearing that it may be desirable to
35 include within the proposed district territory outside of the area within
36 which due notice of the hearing has been given the hearing shall be adjourned
37 and the due notice of further hearing shall be given throughout the entire
38 area considered for inclusion in the district, and such further hearing
39 held. After such hearing, if the ~~commission~~ division shall determine upon
40 the facts presented at such hearing and upon such other relevant facts
41 and information as may be available, that there is need in the interest of
42 the public health, safety and welfare, for a soil conservation district
43 to function in the territory considered at the hearing, it shall make and
44 record such determination, and shall define by metes and bounds or by legal
45 subdivisions, the boundaries of such district. In making such determination
46 and in defining such boundaries, the ~~commission~~ division shall give due
47 weight and consideration to the topography of the area considered and of
48 the state, the composition of soils therein, the distribution of erosion,
49 the prevailing land use practices, the desirability and necessity of
50 including within the boundaries the particular lands under consideration

1 and the benefits such lands may receive from being included within such
2 boundaries, the relation of the proposed area to the existing watersheds
3 and agricultural regions, and to other soil conservation districts already
4 organized or proposed for organization under the provisions of this chapter,
5 and such other physical, geographical, and economic factors as are relevant,
6 having due regard to the legislature determinations set forth in section
7 22-2716, Idaho Code. The territory to be included within such boundaries
8 need not be contiguous. If the ~~commission~~ division shall determine after
9 such hearing, after due consideration of the said relevant facts, that there
10 is no need for a soil conservation district to function in the territory
11 considered at the hearing, it shall make and record such determination
12 and shall deny the petition. After six (6) months ~~shall~~ have expired from
13 the date of the denial of such petition, subsequent petitions covering the
14 same or substantially the same territory may be filed as aforesaid and new
15 hearings held and determinations made thereon.

16 ~~C-(3)~~ After the ~~commission~~ division has made and recorded a
17 determination that there is need, in the interest of the public health,
18 safety, and welfare, for the organization of a district in a particular
19 territory and has defined the boundaries thereof, it shall consider the
20 question whether the operation of a district within such boundaries with
21 the powers conferred upon soil conservation districts in this chapter
22 is administratively practicable and feasible. To assist the ~~commission~~
23 division in the determination of such administrative practicability
24 and feasibility, it shall be the duty of the ~~commission~~ division, at
25 the next election held after entry of the finding that there is need for
26 the organization of the proposed district and the determination of the
27 boundaries thereof, to hold a referendum, subject to the provisions
28 of section 34-106, Idaho Code, within the proposed district upon the
29 proposition of the creation of the district, and to cause notice of such
30 election to be given as provided in section 34-1406, Idaho Code. The
31 question shall be submitted by ballots upon which the words "For creation of
32 a soil conservation district of the lands below described and lying in the
33 county(ies) of and" and "Against creation of a soil conservation
34 district of the lands below described and lying in the county(ies) of
35 and" shall appear, with a square before each proposition and a direction
36 to insert an X mark in the square before one or the other of said propositions
37 as the voter may favor or oppose creation of such district. The ballot shall
38 set forth the boundaries of such proposed district as determined by the
39 ~~commission~~ division. All qualified electors who own lands or reside within
40 the proposed district shall be eligible to vote in said referendum.

41 ~~D-(4)~~ The ~~commission~~ division shall pay all expenses for the issuance
42 of such notice and the conduct of such hearings and election, and shall
43 supervise the conduct of such hearings and election. It shall issue
44 appropriate regulations governing the conduct of such hearings and
45 election. No informalities in the conduct of the election or in any matter
46 relating thereto shall invalidate the election or the result thereof if
47 notice thereof shall have been given substantially as herein provided and
48 the election shall have been fairly conducted.

49 ~~E-(5)~~ The ~~commission~~ division shall publish the result of the election
50 and shall thereafter consider and determine whether the operation of the

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1 district within the defined boundaries is administratively practicable and
2 feasible. If the ~~commission~~ division shall determine that the operation of
3 such district is not administratively practicable and feasible, it shall
4 record such determination and deny the petition. If the ~~commission~~ division
5 shall determine that the operation of such district is administratively
6 practicable and feasible, it shall record such determination and shall
7 proceed with the organization of the district in the manner hereinafter
8 provided. In making such determination the ~~commission~~ division shall give
9 due regard and weight to the attitudes of the owners of lands lying within
10 the defined boundaries, the number of landowners and qualified electors
11 eligible to vote in the election who shall have voted, the proportion of
12 the votes cast in the election in favor of the creation of the district to
13 the total number of votes cast, the approximate wealth and income of the
14 landowners of the proposed district, the probable expense of carrying on
15 erosion control and other conservation operations within such district,
16 and such other economic and social factors as may be relevant to such
17 determination, having due regard to the legislative determination set forth
18 in section 22-2716, Idaho Code; provided, however, that the ~~commission~~
19 division shall not have authority to determine that the operation of
20 the proposed district within the defined boundaries is administratively
21 practicable and feasible unless at least a majority of the votes cast in the
22 election upon the proposition of creation of the district shall have been
23 cast in favor of the creation of such district.

24 ~~F.~~(6) If the ~~commission~~ division shall determine that the operation
25 of the proposed district within the defined boundaries is administratively
26 practicable and feasible, it shall appoint two (2) supervisors to act, with
27 the three (3) supervisors elected as provided hereinafter, as the governing
28 body of the district. Such district shall be a governmental subdivision of
29 this state and a public body corporate and politic, upon the taking of the
30 following proceedings:

31 (a) The two (2) appointed supervisors shall present to the secretary
32 of state an application signed by them which shall set forth (and such
33 application need contain no detail other than the mere recitals): (1*i*)
34 that a petition for the creation of the district was filed with the ~~state~~
35 ~~conservation commission~~ division of resource conservation pursuant to
36 the provisions of this chapter, and that the proceedings specified in
37 this chapter were taken pursuant to such petition; that the application
38 is being filed in order to complete the organization of the district as
39 a governmental subdivision and a public body, corporate and politic,
40 under this chapter; and that the ~~commission~~ division has appointed
41 them as supervisors; (2*ii*) the name and official residence of each of
42 the supervisors, together with a certified copy of the appointments
43 evidencing their right to office; (3*iii*) the term of office of each of
44 the supervisors; (4*iv*) the name which is proposed for the district;
45 and (5*v*) the location of the principal office of the supervisors of the
46 district. The application shall be subscribed and sworn to by each of
47 the said supervisors before an officer authorized by the laws of this
48 state to take and certify oaths, who shall certify upon the application
49 that he personally knows the supervisors and knows them to be the

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1 officers as affirmed in the application, and that each has subscribed
2 thereto in the officer's presence.

3 (b) The application shall be accompanied by a statement by the ~~state~~
4 ~~soil conservation commission~~ division, which shall certify (and such
5 statement need contain no detail other than the mere recitals) that
6 a petition was filed, notice issued, and hearing held as aforesaid;
7 that the ~~commission~~ division did duly determine that there is need,
8 in the interest of the public health, safety and welfare, for a soil
9 conservation district to function in the proposed territory and did
10 define the boundaries thereof; that notice was given and an election
11 held on the question of the creation of such district, and that the
12 result of the election showed a sixty per cent (60%) majority of
13 the votes cast in the election to be in favor of the creation of the
14 district; that thereafter the ~~commission~~ division did duly determine
15 that the operation of the proposed district is administratively
16 practicable and feasible. The said statement shall set forth the
17 boundaries of the district as they have been defined by the ~~commission~~
18 division.

19 (c) The secretary of state shall examine the application and statement
20 and, if he finds that the name proposed for the district is not identical
21 with that of any other soil conservation district of this state or so
22 nearly similar as to lead to confusion or uncertainty, he shall receive
23 and file them and shall record them in an appropriate book of record in
24 his office.

25 (d) If the secretary of state shall find that the name proposed for
26 the district is identical with that of any other soil conservation
27 district of this state, or so nearly similar as to lead to confusion and
28 uncertainty, he shall certify such fact to the ~~state soil conservation~~
29 ~~commission~~ division which shall thereupon submit to the secretary of
30 state a new name for the said district, which shall not be subject to
31 such defects. Upon receipt of such new name free of such defects, the
32 secretary of state shall record the application and statement with the
33 name so modified, in an appropriate book of record in his office. When
34 the application and statement have been made, filed, and recorded,
35 as herein provided, the district shall constitute a governmental
36 subdivision of this state and a public body corporate and politic.
37 The secretary of state shall make and issue to the said supervisors
38 a certificate under the seal of the state, of the due organization
39 of the said district, and shall record such certificate with the
40 application and statement. The boundaries of such district shall
41 include the territory as determined by the ~~state soil conservation~~
42 ~~commission~~ division as aforesaid, but in no event shall they include
43 any area included within the boundaries of another soil conservation
44 district organized under the provisions of this act ~~act~~ chapter except
45 as provided in section 22-2720, Idaho Code.

46 G-(7) After six (6) months shall have expired from the date of entry
47 of a determination by the ~~state soil conservation commission~~ division
48 that operation of a proposed district is not administratively practicable
49 and feasible, and denial of a petition pursuant to such determination,

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1 subsequent petitions may be filed as aforesaid, and action taken thereon in
2 accordance with the provisions of this chapter.

3 ~~H.~~(8) Petitions for including additional territory within an existing
4 district may be filed with the ~~state soil conservation commission~~ division
5 and the proceedings herein provided for in the case of petitions to organize
6 a district shall be observed in the case of petitions for such inclusion. The
7 ~~commission~~ division shall prescribe the form for such petitions, which shall
8 be as nearly as may be in the form prescribed in this chapter for petitions
9 to organize a district. Where the total number of landowners in the area
10 proposed for inclusion shall be less than twenty-five (25), the petition may
11 be filed when signed by a two-thirds (2/3) majority of the owners of such
12 area, and in such case no election need be held. In elections upon petitions
13 for such inclusion, all owners of land and qualified electors lying within
14 the proposed additional area shall be eligible to vote.

15 ~~I.~~(9) Incorporated cities, not already included within a district,
16 may be included by presentation of a request of the district approved by the
17 governing body along with a request of the city approved by the mayor and
18 council, to the ~~state soil conservation commission~~ division. The ~~commission~~
19 division shall consider and act on such joint request at the earliest
20 convenience. If the joint request is denied, the ~~commission~~ division shall
21 so notify the district and city in writing and state the reasons for such
22 denial. After six (6) months shall have expired from the date of denial of
23 such joint request, a subsequent joint request may again be made. If the
24 joint request is approved, the ~~commission~~ division shall then cause the
25 necessary papers to be filed with the secretary of state. This shall include
26 an amended legal description of the boundaries of the total district.

27 SECTION 7. That Section 22-2720, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 22-2720. CONSOLIDATION OF OR DELETION FROM AND ADDITION TO NEW OR
30 EXISTING DISTRICTS. ~~(1.)~~ Petitions for consolidating two (2) or more
31 existing districts or for deleting territory from one or more existing
32 districts and adding the deleted territory to one or more existing districts
33 or incorporating the deleted territory into a new district or districts may
34 be filed with the ~~state soil conservation commission~~ division on such forms
35 as may be prescribed by the ~~state soil conservation commission~~ division.

36 ~~(2.)~~ The petitions provided for in subsection (1) of this section
37 shall be signed by twenty-five (25) landowners in the area proposed to
38 be consolidated or the area proposed to be deleted plus the district or
39 districts to which it is to be added or the territory which is to be included
40 in a new district or districts, as the case may be. Provided, however, that
41 if two-thirds (2/3) of the landowners of all such territory total less than
42 twenty-five (25), then, ~~in that event~~, such lesser number of signatures will
43 suffice for the petition.

44 ~~(3.)~~ Within thirty (30) days after receipt of such a petition, the ~~state~~
45 ~~soil conservation commission~~ division shall cause due notice of hearing on
46 the matter to be given in all of the areas concerned.

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1 (4-) At the close of the hearing hereinbefore provided for, the ~~state~~
2 ~~soil conservation commission must~~ division shall make and record the
3 following determinations:

4 (a-) Whether or not, in the opinion of the ~~commission~~ division, the
5 proposal set forth by the petition would serve the public health, safety
6 and welfare.

7 (b-) Whether or not, in the opinion of the ~~commission~~ division, the
8 proposal set forth by the petition is administratively practicable and
9 feasible.

10 (5-) If either or both of the determinations made under subsection
11 (4) of this section are in the negative, the matter is closed. Provided,
12 however, that after six (6) months have expired from the date of such
13 determination, a new petition may be filed involving substantially the same
14 proposals.

15 (6-) If both of the determinations made under subsection (4) of
16 this section are in the affirmative and if the proposal involves the
17 consolidation of two (2) or more existing districts or if the proposal
18 involves the deletion of territory from one (1) or more districts and the
19 addition of that territory to another existing district or districts,
20 then the ~~commission~~ division shall proceed to effect the change as per the
21 ~~commission's division's~~ determinations hereinbefore referred to. The ~~state~~
22 ~~soil conservation commission division~~ shall effect the change ~~here referred~~
23 ~~to~~ by filing with the secretary of state a sworn statement of ~~a member~~ the
24 administrator of the ~~commission~~ division stating:

25 (a-) The name of the district or districts which are consolidated, if
26 any,

27 (b-) The name of the district or districts from which the territory is
28 deleted or added, if any, and

29 (c-) A description of the boundaries of the consolidated district or
30 of the territory remaining in the district or districts deleted from
31 and the district or districts added to, according to the ~~commission's~~
32 division's determination hereinbefore referred to.

33 From and after the time of filing of such statement with the secretary
34 of state, the changes will be effective. If the name of a district formed by
35 the consolidation of two (2) or more existing districts differs from that of
36 either of the consolidated districts, the secretary of state shall issue and
37 record a new certificate of organization of said district.

38 (7-) The office of any district supervisor is hereby declared to be
39 vacant, when, after the deletion of territory, such district supervisor is
40 no longer a landowner within the district deleted from.

41 (8-) If both of the determinations made under subsection (4) of this
42 section are in the affirmative and if the proposal involves the addition of
43 territory ~~deleted~~ ~~deleted~~ ~~deleted~~ from one (1) or more existing districts
44 to other territory thus forming a new district, a referendum shall be held
45 and other procedures followed as in cases involving the original formation
46 of a district where no existing district is involved. In such a case, due
47 notice shall be given in the area which may comprise the new district.

48 (9-) If a new district is formed under the procedure prescribed in
49 subsection (8) of this section, part of the area which is composed of an
50 old district, the ~~state soil conservation commission~~ division shall cause

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1 to be filed with the secretary of state a sworn statement of ~~a member~~ the
2 administrator of the ~~commission~~ division stating:

3 (a-) The name of the district or districts deleted from ~~7~~ ; and

4 (b-) A description of the boundaries of the territory remaining in the
5 district or districts deleted from.

6 From and after the time of filing of such statement with the secretary
7 of state, the change in the boundaries of the existing districts shall be
8 effective.

9 SECTION 8. That Section 22-2721, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
12 SUPERVISORS. **[EFFECTIVE UNTIL JANUARY 1, 2011]** (1) The governing body of
13 the district shall consist of five (5) supervisors, elected or appointed
14 as provided in this chapter. Elections shall be conducted pursuant to the
15 provisions of this section and the uniform district election law, chapter
16 14, title 34, Idaho Code. If at any time the supervisors of a district deem
17 it necessary, they may request permission from the ~~state soil conservation~~
18 ~~commission~~ division to increase the number of supervisors to seven (7). Upon
19 receipt of such a request in writing, signed by all five (5) supervisors,
20 stating a valid reason for such need, the ~~commission~~ division shall grant
21 permission. The additional supervisors shall then be appointed as outlined
22 in ~~subparagraph C.~~ subsection (5) of this section until such time as regular
23 district elections for two (2) supervisors in each district. At that time
24 those districts having seven (7) supervisors shall then elect four (4)
25 supervisors for four (4) year terms. The two (2) supervisors appointed by
26 the ~~commission~~ division shall be persons who are by training and experience
27 qualified to perform the specialized services which will be required of them
28 in the performance of their duties. All supervisors shall be landowners
29 or farmers of and eligible voters in the district where they are elected or
30 appointed.

31 A. (2) Within thirty (30) days after the date of issuance by the
32 secretary of state of a certificate of organization of a soil conservation
33 district, nominating petitions may be filed with the ~~state soil conservation~~
34 ~~commission~~ division to nominate candidates for supervisors of each
35 district. The ~~soil conservation commission~~ division, unless it has
36 contracted with the county clerk to conduct the election, shall designate
37 an individual to act as the election official. If contracted to do so, the
38 county clerk shall act as the election official. The election official
39 shall have authority to extend the time within which nominating petitions
40 may be filed. No such nominating petition shall be accepted by the election
41 official unless it shall be subscribed by not less than five (5) persons
42 who are qualified electors owning land or residing within the boundaries of
43 the district. The election official shall give due notice of an election
44 to be held, subject to the provisions of section 34-106, Idaho Code, for
45 the election of three (3) supervisors for the district. The names of all
46 nominees on behalf of whom such nominating petitions have been filed within
47 the time herein designated, shall appear arranged in the alphabetical order
48 of the surnames, upon ballots, with a square before each name and directions

1 to insert a mark in the square before any three (3) names to indicate the
2 voter's preference. The three (3) candidates who shall receive the largest
3 number, respectively, of the votes cast in such election shall be the elected
4 supervisors for such district. The ~~commission~~ division shall pay all the
5 expenses of such election, which shall be supervised and conducted by the
6 election official.

7 ~~B.~~ (3) All elections in districts, excluding the first election as
8 provided in ~~subparagraph A.~~ subsection (2) of this section, shall be
9 conducted by the district supervisors of the districts involved who shall
10 designate an individual to be the election official, or the county clerk
11 if contracted for that purpose. Such election shall be held on the first
12 Tuesday succeeding the first Monday of November in each even-numbered year.
13 Such elections shall be in compliance with the provisions of chapter 14,
14 title 34, Idaho Code, and shall be supervised and conducted by the election
15 official. The cost of conducting such elections shall be borne by the
16 district involved. The election official shall certify to the ~~state soil~~
17 ~~conservation commission~~ division the names of the elected supervisors.
18 The ~~state soil conservation commission~~ division shall issue certificates
19 of election to each elected supervisor so certified. The ~~state soil~~
20 ~~conservation commission~~ division may authorize each district to contract
21 with the county clerk or county clerks of the county or counties in which
22 the district is located to conduct the election for the soil conservation
23 district. If a district election is conducted by a county clerk, the county
24 clerk must provide a ballot for the district election, and must provide a
25 process that allows only qualified electors of the district to vote in that
26 district's election.

27 (4) In any election for supervisor, if after the deadline for filing
28 a declaration of intent as a write-in candidate, it appears that the
29 number of qualified candidates who have been nominated is equal to the
30 number of supervisors to be elected, it shall not be necessary for the
31 candidates to stand for election, and the board of supervisors shall declare
32 such candidates elected as supervisors, and the ~~state soil conservation~~
33 ~~commission~~ division shall immediately make and deliver to such persons
34 certificates of election.

35 ~~C.~~ (5) In any election for supervisors of a soil conservation district,
36 if after the expiration of the date for filing written nominations it appears
37 that only one (1) qualified candidate has been nominated for each position to
38 be filled and no declaration of intent has been filed by a write-in candidate
39 as provided in ~~subparagraph D.~~ subsection (6) of this section, it shall not
40 be necessary to hold an election, and the election official shall, no later
41 than seven (7) days before the scheduled date of the election, declare such
42 candidate elected as supervisor, and the ~~state soil conservation commission~~
43 division shall immediately make and deliver to such person a certificate of
44 election.

45 ~~D.~~ (6) No write-in vote for supervisor shall be counted unless a
46 declaration of intent has been filed with the election official indicating
47 that the person making the declaration desires the office and is legally
48 qualified to assume the duties of supervisor if elected as a write-in
49 candidate. The declaration of intent shall be filed not later than
50 twenty-five (25) days before the day of election.

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1 ~~E.~~(7) The supervisors shall designate a chairman and may, from time
2 to time, change such designation. The term of office of each supervisor
3 shall be four (4) years commencing on the first day of January next following
4 election, except that the two (2) supervisors who are first appointed shall
5 be designated to serve for terms of two (2) years. A supervisor shall hold
6 office until a qualified successor has been elected or appointed. Vacancies
7 shall be filled for the unexpired term. The selection of successors to fill
8 an unexpired term, or for a full term shall be made by a vote of the majority
9 of the supervisors duly qualified and acting at the time the vacancy shall
10 arise and the supervisors shall certify the name of the appointed supervisor
11 to the ~~state soil conservation commission~~ division which shall issue a
12 certificate of such appointment.

13 ~~F.~~(8) A majority of the supervisors shall constitute a quorum and
14 the concurrence of a majority in any matter within their duties shall be
15 required for its determination. A supervisor shall be entitled to expenses,
16 including travel expense, necessarily incurred in the discharge of duties.
17 A supervisor shall receive no compensation for services from regular
18 district funds, county funds authorized in section 22-2726, Idaho Code, or
19 state funds authorized in section 22-2727, Idaho Code.

20 (9) In the event the district has a special project, approved by the
21 ~~state soil conservation commission~~ division, making project funds available
22 from federal or other sources, a supervisor may receive compensation not
23 to exceed thirty-five dollars (\$35.00) per day plus actual and necessary
24 expenses from project funds for services directly related to the project.

25 (10) The supervisors may employ a secretary, technical experts, and
26 such other officers, agents, and employees, permanent and temporary as
27 they may require, and shall determine their qualifications, duties and
28 compensation. The supervisors may call upon the attorney general of the
29 state for such legal services as they may require or may employ their own
30 counsel and legal staff. The supervisors may delegate to their chairman, to
31 one (1) or more supervisors, or to one (1) or more agents, or employees, such
32 powers and duties as they may deem proper. The supervisors shall furnish
33 to the ~~state soil conservation commission~~ division, upon request, copies
34 of such ordinances, rules, orders, contracts, forms and other documents as
35 they shall adopt or employ, and such other information concerning ~~their~~ the
36 supervisors' activities as ~~it~~ the division may require in the performance of
37 ~~its~~ the division's duties under this chapter.

38 (11) The supervisors shall provide for the execution of surety bonds for
39 all employees and officers who shall be entrusted with funds or property;
40 they shall provide for the keeping of a full and accurate record of all
41 proceedings and of all resolutions, and orders issued or adopted; and shall
42 provide for independent financial audits in accordance with the provisions
43 of section 67-450B, Idaho Code, with the exception of the provisions of
44 subsection (2) (d) of section 67-450B, Idaho Code. The governing body of a
45 district whose annual budget from all sources does not exceed fifty thousand
46 dollars (\$50,000) may elect to have its financial statements reviewed
47 on a biennial basis. Biennial ~~reports of review~~ independent financial
48 audits shall include a review of each fiscal year since the previous review
49 report. The supervisors shall file with the division one (1) copy of
50 each completed financial audit report within nine (9) months after the

1 end of the audit period. Any supervisor may be removed by the ~~state soil~~
2 ~~conservation commission~~ director upon notice and hearing, for neglect of
3 duty or malfeasance in office, but for no other reason.

4 (12) The supervisors may invite the legislative body of a municipality
5 or county located near the territory comprised within the district to
6 designate a representative to advise and consult with the supervisors of
7 the district on all questions of program and policy which may affect the
8 property, water supply, or other interests of such municipality or county.

9 22-2721. ELECTION, APPOINTMENT, QUALIFICATIONS AND TENURE OF
10 SUPERVISORS. [EFFECTIVE JANUARY 1, 2011] (1) The governing body of the
11 district shall consist of five (5) supervisors, elected or appointed as
12 provided in this chapter. Elections shall be conducted pursuant to the
13 provisions of this section and the uniform district election law, chapter
14 14, title 34, Idaho Code. If at any time the supervisors of a district deem
15 it necessary, they may request permission from the ~~state soil conservation~~
16 ~~commission~~ division to increase the number of supervisors to seven (7). Upon
17 receipt of such a request in writing, signed by all five (5) supervisors,
18 stating a valid reason for such need, the ~~commission~~ division shall grant
19 permission. The additional supervisors shall then be appointed as outlined
20 in subsection ~~C.~~ (5) of this section until such time as regular district
21 elections for two (2) supervisors in each district. At that time those
22 districts having seven (7) supervisors shall then elect four (4) supervisors
23 for four (4) year terms. The two (2) supervisors appointed by the ~~commission~~
24 division shall be persons who are by training and experience qualified
25 to perform the specialized services which will be required of them in the
26 performance of their duties. All supervisors shall be landowners or farmers
27 of and eligible voters in the district where they are elected or appointed.

28 A. (2) Within thirty (30) days after the date of issuance by the
29 secretary of state of a certificate of organization of a soil conservation
30 district, nominating petitions may be filed with the ~~state soil conservation~~
31 ~~commission~~ division to nominate candidates for supervisors of each
32 district. The county clerk shall conduct the election for the district
33 and shall be the election official for the district. The election official
34 shall have authority to extend the time within which nominating petitions
35 may be filed. No such nominating petition shall be accepted by the election
36 official unless it shall be subscribed by not less than five (5) persons
37 who are qualified electors owning land or residing within the boundaries of
38 the district. The election official shall give due notice of an election
39 to be held, subject to the provisions of section 34-106, Idaho Code, for
40 the election of three (3) supervisors for the district. The names of all
41 nominees on behalf of whom such nominating petitions have been filed within
42 the time herein designated, shall appear upon ballots, with directions to
43 choose three (3) names to indicate the voter's preference. The three (3)
44 candidates who shall receive the largest number, respectively, of the votes
45 cast in such election shall be the elected supervisors for such district.
46 The ~~commission~~ division shall pay all the expenses of such election, which
47 shall be supervised and conducted by the election official.

48 B. (3) All elections in districts shall be conducted by the county
49 clerk. Such election shall be held on the first Tuesday succeeding the first
50 Monday of November in each even-numbered year. Such elections shall be in

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1 compliance with the provisions of chapter 14, title 34, Idaho Code, and shall
2 be supervised and conducted by the county clerk. The cost of conducting
3 such elections shall be borne by the county that conducted the election.
4 The county clerk shall certify to the ~~state soil conservation commission~~
5 division the names of the elected supervisors. The ~~state soil conservation~~
6 ~~commission~~ division shall issue certificates of election to each elected
7 supervisor so certified. The county clerk or county clerks of the county or
8 counties in which the district is located shall conduct the election for the
9 soil conservation district, and the county clerk must provide a ballot for
10 the district election, and must provide a process that allows only qualified
11 electors of the district to vote in that district's election.

12 (4) In any election for supervisor, if after the deadline for filing
13 a declaration of intent as a write-in candidate, it appears that the
14 number of qualified candidates who have been nominated is equal to the
15 number of supervisors to be elected, it shall not be necessary for the
16 candidates to stand for election, and the board of supervisors shall declare
17 such candidates elected as supervisors, and the ~~state soil conservation~~
18 ~~commission~~ division shall immediately make and deliver to such persons
19 certificates of election.

20 ~~E.~~(5) In any election for supervisors of a soil conservation district,
21 if after the expiration of the date for filing written nominations it appears
22 that only one (1) qualified candidate has been nominated for each position to
23 be filled and no declaration of intent has been filed by a write-in candidate
24 as provided in subsection ~~D.~~ (6) of this section, it shall not be necessary
25 to hold an election, and the county clerk shall, no later than seven (7) days
26 before the scheduled date of the election, declare such candidate elected
27 as supervisor, and the ~~state soil conservation commission~~ division shall
28 immediately make and deliver to such person a certificate of election.

29 ~~D.~~(6) No write-in vote for supervisor shall be counted unless a
30 declaration of intent has been filed with the county clerk indicating
31 that the person making the declaration desires the office and is legally
32 qualified to assume the duties of supervisor if elected as a write-in
33 candidate. The declaration of intent shall be filed not later than
34 twenty-five (25) days before the day of election.

35 ~~E.~~(7) The supervisors shall designate a chairman and may, from time
36 to time, change such designation. The term of office of each supervisor
37 shall be four (4) years commencing on the first day of January next following
38 election, except that the two (2) supervisors who are first appointed shall
39 be designated to serve for terms of two (2) years. A supervisor shall hold
40 office until a qualified successor has been elected or appointed. Vacancies
41 shall be filled for the unexpired term. The selection of successors to fill
42 an unexpired term, or for a full term shall be made by a vote of the majority
43 of the supervisors duly qualified and acting at the time the vacancy shall
44 arise and the supervisors shall certify the name of the appointed supervisor
45 to the ~~state soil conservation commission~~ division which shall issue a
46 certificate of such appointment.

47 ~~F.~~(8) A majority of the supervisors shall constitute a quorum and
48 the concurrence of a majority in any matter within their duties shall be
49 required for its determination. A supervisor shall be entitled to expenses,
50 including travel expense, necessarily incurred in the discharge of duties.

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1 A supervisor shall receive no compensation for services from regular
2 district funds, county funds authorized in section 22-2726, Idaho Code, or
3 state funds authorized in section 22-2727, Idaho Code.

4 (9) In the event the district has a special project, approved by the
5 ~~state soil conservation commission division~~, making project funds available
6 from federal or other sources, a supervisor may receive compensation not
7 to exceed thirty-five dollars (\$35.00) per day plus actual and necessary
8 expenses from project funds for services directly related to the project.

9 (10) The supervisors may employ a secretary, technical experts, and
10 such other officers, agents, and employees, permanent and temporary as
11 they may require, and shall determine their qualifications, duties and
12 compensation. The supervisors may call upon the attorney general of the
13 state for such legal services as they may require or may employ their own
14 counsel and legal staff. The supervisors may delegate to their chairman, to
15 one (1) or more supervisors, or to one (1) or more agents, or employees, such
16 powers and duties as they may deem proper. The supervisors shall furnish
17 to the ~~state soil conservation commission division~~, upon request, copies
18 of such ordinances, rules, orders, contracts, forms and other documents as
19 they shall adopt or employ, and such other information concerning ~~their~~ the
20 supervisors' activities as ~~it~~ the division may require in the performance of
21 its the division's duties under this chapter.

22 (11) The supervisors shall provide for the execution of surety bonds for
23 all employees and officers who shall be entrusted with funds or property;
24 they shall provide for the keeping of a full and accurate record of all
25 proceedings and of all resolutions, and orders issued or adopted; and shall
26 provide for independent financial audits in accordance with the provisions
27 of section 67-450B, Idaho Code, with the exception of the provisions of
28 subsection (2)(d) of section 67-450B, Idaho Code. The governing body of a
29 district whose annual budget from all sources does not exceed fifty thousand
30 dollars (\$50,000) may elect to have its financial statements reviewed
31 on a biennial basis. Biennial ~~reports of review~~ independent financial
32 audits shall include a review of each fiscal year since the previous review
33 report. The supervisors shall file with the division one (1) copy of
34 each completed financial audit report within nine (9) months after the
35 end of the audit period. Any supervisor may be removed by the ~~state soil~~
36 ~~conservation commission~~ director upon notice and hearing, for neglect of
37 duty or malfeasance in office, but for no other reason.

38 (12) The supervisors may invite the legislative body of a municipality
39 or county located near the territory comprised within the district to
40 designate a representative to advise and consult with the supervisors of
41 the district on all questions of program and policy which may affect the
42 property, water supply, or other interests of such municipality or county.

43 SECTION 9. That Section 22-2723, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 22-2723. COOPERATION BETWEEN DISTRICTS. The supervisors of any two
46 (2) or more districts organized under the provisions of this ~~act~~ chapter may
47 cooperate with one another in the exercise of any or all powers conferred in
48 this act.

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1 SECTION 10. That Section 22-2724, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-2724. STATE AGENCIES TO COOPERATE. Agencies of this state which
4 shall have jurisdiction over, or be charged with the administration of, any
5 state-owned lands, and of any county, or other governmental subdivision
6 of the state, which shall have jurisdiction over, or charged with the
7 administration of, any county-owned or other publicly owned lands, lying
8 within the boundaries of any district organized hereunder, shall cooperate
9 to the fullest extent with the supervisors of such districts in the
10 effectuation of programs and operations undertaken by the supervisors under
11 the provisions of this ~~act~~ chapter. The supervisors of such district shall
12 be given free access to enter and perform work upon such publicly owned
13 lands.

14 SECTION 11. That Section 22-2725, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 22-2725. DISCONTINUANCE OF DISTRICTS. **[EFFECTIVE UNTIL JANUARY 1,**
17 **2011]** (1) At any time after five (5) years after the organization of a
18 district under the provisions of this chapter, any twenty-five (25) owners
19 of land lying within the boundaries of such district may file a petition with
20 the ~~state soil conservation commission~~ praying division requesting that the
21 operations of the district be terminated and the existence of the district
22 discontinued. The ~~commission~~ division may conduct such public meetings, and
23 public hearings upon such petition as may be necessary to assist it in the
24 consideration thereof. Within sixty (60) days after such petition has been
25 received by the ~~commission~~ division it shall give due notice of the holding
26 of an election, subject to the provisions of section 34-106, Idaho Code, and
27 shall supervise the election, and issue appropriate regulations governing
28 such election as are consistent with chapter 14, title 34, Idaho Code, the
29 question to be submitted by ballots upon which the words "For terminating
30 the existence of the (name of the soil conservation district to be
31 here inserted)" shall appear, with a square before each proposition and
32 a direction to insert an Xmark in the square before one or the other of
33 said propositions as the voter may favor or oppose discontinuance of such
34 district. All qualified electors who own land or reside within the proposed
35 district shall be eligible to vote in said election. No informalities in the
36 conduct of the election or in any matters relating thereto shall invalidate
37 the election or the result thereof if notice thereof shall have been given
38 substantially as herein provided and the election shall have been fairly
39 conducted.

40 (2) The ~~commission~~ division shall publish the result of the election
41 and shall thereafter consider and determine whether the continued
42 operation of the district within the defined boundaries is administratively
43 practicable and feasible. If the ~~commission~~ division determines that
44 the continued operation of such district is administratively practicable
45 and feasible, it shall record such determination and deny ~~this~~ the petition.
46 If the ~~commission~~ division determines that the continued operation
47 of such district is not administratively practicable and feasible, it

1 shall record such determination and shall certify such determination
2 to the supervisors of the district. In making such determination the
3 ~~commission~~ division shall give due regard and weight to the attitudes of
4 the owners of lands lying within the district, the number of landowners
5 eligible to vote in the election who shall have voted, the proportion of the
6 votes cast in the election in favor of the discontinuance of the district
7 to the total number of votes cast, the approximate wealth and income of
8 the landowners of the district, the probable expense of carrying on such
9 erosion-control operations within such district, and such other economic
10 and social factors as may be relevant to such determination, having due
11 regard to the legislative findings set forth in section 22-2716, Idaho Code,
12 provided, however, that the ~~commission~~ division shall not have authority to
13 determine that the continued operation of the district is administratively
14 practicable and feasible unless at least a majority of the votes cast in the
15 election shall have been cast in favor of the continuance of such district.

16 (3) Upon receipt from the ~~state soil conservation commission~~ division
17 of a certificate that the ~~commission~~ division has determined that the
18 continued operation of the district is not administratively practicable
19 and feasible, pursuant to the provisions of this section, the supervisors
20 shall forthwith proceed to terminate the affairs of the district. The
21 supervisors shall dispose of all property belonging to the district at
22 public auction and shall pay over the proceeds of such sale to be covered into
23 the state treasury. The supervisors shall thereupon file an application
24 duly verified, with the secretary of state for the discontinuance of such
25 district, and shall transmit with such application the certificate of the
26 ~~state soil conservation commission~~ division setting forth the determination
27 of the ~~commission~~ division that the continued operation of such district
28 is not administratively practicable and feasible. The application shall
29 recite that the property of the district has been disposed of and the
30 proceeds paid over as in this section provided, and shall set forth a full
31 accounting of such properties and proceeds of the sale. The secretary of
32 state shall issue to the supervisors a certificate of dissolution and shall
33 record such certificate in an appropriate book of record in his office.

34 (4) Upon issuance of a certificate of dissolution under the provisions
35 of this section, all contracts theretofore entered into, to which the
36 district or supervisors are parties, shall remain in force and effect for the
37 period provided in such contracts. The ~~state soil conservation commission~~
38 division shall be substituted for the district or supervisors as party to
39 such contracts.

40 (5) The ~~state soil conservation commission~~ division shall not
41 entertain petitions for the discontinuance of any district nor conduct
42 elections upon such petitions nor make determinations pursuant to such
43 petitions in accordance with the provisions of this chapter, more often than
44 once in five (5) years.

45 22-2725. DISCONTINUANCE OF DISTRICTS. [EFFECTIVE JANUARY 1, 2011] (1)
46 At any time after five (5) years after the organization of a district
47 under the provisions of this chapter, any twenty-five (25) owners of land
48 lying within the boundaries of such district may file a petition with the
49 ~~state soil conservation commission~~ praying division requesting that the
50 operations of the district be terminated and the existence of the district

1 discontinued. The ~~commission~~ division may conduct such public meetings, and
2 public hearings upon such petition as may be necessary to assist it in the
3 consideration thereof. Within sixty (60) days after such petition has been
4 received by the ~~commission~~ division, it shall give due notice to the county
5 clerk of the holding of an election, subject to the provisions of section
6 34-106, Idaho Code, and the county clerk shall supervise the election, and
7 issue appropriate regulations governing such election as are consistent
8 with chapter 14, title 34, Idaho Code, the question to be submitted by
9 ballots upon which the words "For terminating the existence of the
10 (name of the soil conservation district to be here inserted)" shall appear,
11 with a square before each proposition and a direction to mark the ballot as
12 the voter may favor or oppose discontinuance of such district. All qualified
13 electors who reside within the proposed district shall be eligible to vote
14 in said election. No informalities in the conduct of the election or in any
15 matters relating thereto shall invalidate the election or the result thereof
16 if notice thereof shall have been given substantially as herein provided and
17 the election shall have been fairly conducted.

18 (2) The ~~commission~~ division shall publish the result of the election
19 and shall thereafter consider and determine whether the continued
20 operation of the district within the defined boundaries is administratively
21 practicable and feasible. If the ~~commission~~ division determines that
22 the continued operation of such district is administratively practicable
23 and feasible, it shall record such determination and deny ~~this~~ the petition.
24 If the ~~commission~~ division determines that the continued operation
25 of such district is not administratively practicable and feasible, it
26 shall record such determination and shall certify such determination
27 to the supervisors of the district. In making such determination the
28 ~~commission~~ division shall give due regard and weight to the attitudes of
29 the owners of lands lying within the district, the number of residents
30 eligible to vote in the election who shall have voted, the proportion of the
31 votes cast in the election in favor of the discontinuance of the district
32 to the total number of votes cast, the approximate wealth and income of
33 the landowners of the district, the probable expense of carrying on such
34 erosion-control operations within such district, and such other economic
35 and social factors as may be relevant to such determination, having due
36 regard to the legislative findings set forth in section 22-2716, Idaho Code,
37 provided, however, that the ~~commission~~ division shall not have authority to
38 determine that the continued operation of the district is administratively
39 practicable and feasible unless at least a majority of the votes cast in the
40 election shall have been cast in favor of the continuance of such district.

41 (3) Upon receipt from the ~~state soil conservation commission~~ division
42 of a certificate that the ~~commission~~ division has determined that the
43 continued operation of the district is not administratively practicable
44 and feasible, pursuant to the provisions of this section, the supervisors
45 shall forthwith proceed to terminate the affairs of the district. The
46 supervisors shall dispose of all property belonging to the district at
47 public auction and shall pay over the proceeds of such sale to be covered into
48 the state treasury. The supervisors shall thereupon file an application
49 duly verified, with the secretary of state for the discontinuance of such
50 district, and shall transmit with such application the certificate of the

1 ~~state soil conservation commission~~ division setting forth the determination
2 of the ~~commission~~ division that the continued operation of such district
3 is not administratively practicable and feasible. The application shall
4 recite that the property of the district has been disposed of and the
5 proceeds paid over as in this section provided, and shall set forth a full
6 accounting of such properties and proceeds of the sale. The secretary of
7 state shall issue to the supervisors a certificate of dissolution and shall
8 record such certificate in an appropriate book of record in his office.

9 (4) Upon issuance of a certificate of dissolution under the provisions
10 of this section, all contracts theretofore entered into, to which the
11 district or supervisors are parties, shall remain in force and effect for the
12 period provided in such contracts. The ~~state soil conservation commission~~
13 division shall be substituted for the district or supervisors as party to
14 such contracts.

15 (5) The ~~state soil conservation commission~~ division shall not
16 entertain petitions for the discontinuance of any district nor conduct
17 elections upon such petitions nor make determinations pursuant to such
18 petitions in accordance with the provisions of this chapter, more often than
19 once in five (5) years.

20 SECTION 12. That Section 22-2727, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 22-2727. ALLOCATION OF FUNDS TO DISTRICTS. (1) A public hearing shall
23 be held by the ~~Idaho soil conservation commission~~ division of resource
24 conservation on or before June 15 of each year and twenty (20) days' written
25 notice of such hearing shall be given to each Idaho soil conservation
26 district and to all other persons requesting notice of such hearing. At the
27 hearing the ~~Idaho soil conservation commission~~ division shall consider the
28 needs of each Idaho soil conservation district and shall base its request
29 for state funds for the Idaho soil conservation districts upon the budgets,
30 budget requests, district programs and work plans, and work load analysis of
31 the various soil conservation districts.

32 (2) All funds appropriated by the state for the various Idaho soil
33 conservation districts shall be appropriated to the ~~Idaho soil conservation~~
34 ~~commission~~ Idaho department of agriculture and shall be allocated equally to
35 the various Idaho soil conservation districts on the basis of the criteria
36 established in the preceding paragraph.

37 (3) Funds appropriated to the ~~Idaho soil conservation commission~~
38 Idaho department of agriculture for distribution to soil conservation
39 districts shall be allocated by the department equally to the various soil
40 conservation districts in a sum not to exceed ~~five~~ seven thousand ~~five~~
41 hundred dollars (\$~~57,0500~~) per district. All funds appropriated to the ~~soil~~
42 ~~conservation commission~~ department for distribution to soil conservation
43 districts in excess of ~~five~~ seven thousand ~~five~~ hundred dollars (\$~~57,0500~~)
44 per district shall be allocated by the department to the various soil
45 conservation districts in a sum not to exceed twice the amount of funds
46 or services allocated to each district by the county commissioners in the
47 previous fiscal year and funds or services allocated to each district by
48 authorized officials or other local units of government or organizations

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1 in the previous fiscal year, provided that any such allocation by the
2 department shall not exceed forty thousand dollars (\$40,000) to any one (1)
3 district in a fiscal year.

4 (4) The ~~Idaho soil conservation commission~~ Idaho department of
5 agriculture shall adopt all rules and regulations necessary to carry out the
6 purposes of this section.

7 SECTION 13. That Section 22-2730, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 22-2730. RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT FUND
10 CREATED. (1) There is hereby created in the state treasury a fund to be
11 known as the Idaho resource conservation and rangeland development fund,
12 which shall consist of all moneys which may be appropriated to it by the
13 legislature or made available to it from federal, private, or other sources.
14 The state treasurer is directed to invest all unobligated moneys in the fund.
15 All interest and other income accruing from such investments shall accrue to
16 the fund. The ~~state soil conservation commission~~ division may expend from
17 the fund such sums as it shall deem necessary for any of the conservation
18 improvements, projects and programs provided for under this chapter under
19 such terms and conditions provided for in ~~its~~ the department's rules and the
20 water quality program for agriculture.

21 (2) The ~~state soil conservation commission~~ division shall establish a
22 priority list for conservation improvements, projects and the water quality
23 program for agriculture. The priority list shall be used as the method for
24 allocation of funds loaned under this chapter.

25 SECTION 14. That Section 22-2731, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 22-2731. ALLOCATION OF FUND. The Idaho resource conservation and
28 rangeland development fund shall be allocated for use:

29 (1) By the ~~state soil conservation commission~~ division to eligible
30 applicants for conservation improvements which it deems to be "in the
31 public interest" in such amounts as are necessary for the implementation of
32 conservation measures identified in a conservation plan;

33 (2) By the ~~commission~~ division to eligible applicants for the purpose
34 of conservation improvements on rangelands, agricultural lands, and
35 riparian lands, which will provide environmental enhancement to soil,
36 water, wildlife, and related resources;

37 (3) By the ~~commission~~ division for the purpose of implementing
38 conservation improvements, projects and the water quality program for
39 agriculture.

40 SECTION 15. That Section 22-2732, Idaho Code, be, and the same is hereby
41 amended to read as follows:

42 22-2732. LOANS FROM FUND -- APPLICATION -- APPROVAL -- REPAYMENT. (a1)
43 Eligible applicants may file an application with the ~~local soil conservation~~
44 ~~district or the state soil conservation commission~~ division for a loan from

the fund for the purpose of financing conservation improvement cost. Such application shall be filed in such a manner, and shall be in such form, and be accompanied by such information as may be prescribed by the ~~commission~~ division. Any such application filed with the ~~district or the commission~~ division under the provisions of this ~~act~~ chapter shall:

- (1a) Describe the nature and purposes of the improvements or projects;
- (2b) Set forth or be accompanied by a conservation plan approved by the local soil conservation district ~~or the commission~~ that identifies the conservation improvements, or projects, together with such technical and economic feasibility data and estimated costs as may be required by the ~~commission~~ division;
- (3c) State whether money other than that for which application is made under this ~~act~~ chapter will be used for improvement costs, and whether such money is available or has been sought for this purpose;
- (4d) Show that the applicant holds or can acquire title to all lands or has necessary easements and rights-of-way for the improvements; and
- (5e) Show the proposed project is feasible from a technical standpoint and economically justified.

(b2) Within sixty (60) days of receipt of an application, the ~~local soil conservation district or the commission~~ division, in consultation with the local soil conservation district, shall review and evaluate, and if it deems necessary, investigate aspects of the proposed improvements. As part of such investigation, the district or the ~~commission~~ division shall determine whether the plan for development of the conservation improvements is satisfactory. If the district or the ~~commission~~ division determines the plan is unsatisfactory, ~~it~~ the division shall return the application to the applicant and may make such recommendations to the applicant as are considered necessary to make the plan satisfactory. If the district or the ~~commission~~ division determines the plan ~~and application are~~ is satisfactory and the division determines that the application is satisfactory, it shall be considered for funding.

(e3) The ~~commission~~ resource conservation advisory board may approve a loan for conservation improvements if after review, evaluation, ~~and~~ investigation if necessary, it finds that:

- (1a) The applicant is qualified and responsible;
- (2b) There is reasonable assurance that the borrower can repay the loan; and
- (3c) That money in the resource conservation and rangeland development fund is available for the loan.

(d4) If the ~~commission~~ resource conservation advisory board approves a loan, the applicant shall execute a promissory note for repayment to the account of money loaned therefrom, together with interest not to exceed six percent (6%) annually as determined by the ~~commission~~ board. The note shall further provide that repayment of the loan, together with interest thereon, shall commence not later than two (2) full years from the date the note is signed. Repayment shall be completed within the time period specified by the ~~commission~~ board not to exceed fifteen (15) years, except that the ~~commission~~ board may extend the time for making repayment in event of emergency or hardship. Such agreement shall also provide for such assurance

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1 of, and security for, repayment of the loan as are considered necessary by
2 the ~~commission~~ board.

3 (e5) Upon the board's approval of the loan and securing all necessary
4 documents, the ~~commission~~ division will make available, in approved form,
5 project or contract funding.

6 (f6) If an applicant fails to comply with the repayment contract, the
7 interest in the improvement may be conveyed to a successor upon approval by
8 the ~~commission~~ division, which may contract with the qualified successor in
9 interest of the original obligor for repayment of the loan, together with
10 interest thereon, and for succession to its rights and obligation in any
11 contract with the ~~commission~~ division.

12 SECTION 16. That Section 22-2733, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 22-2733. GRANTS FROM ~~STATE SOIL CONSERVATION COMMISSION~~ IDAHO
15 DEPARTMENT OF AGRICULTURE GENERAL FUND -- APPLICATION -- APPROVAL -- GRANT
16 AGREEMENT. (1) Eligible applicants or participants may file an application
17 with the ~~local soil conservation district or the state soil conservation~~
18 ~~commission division~~ for a grant from the state soil conservation commission
19 Idaho department of agriculture general fund for the purpose of financing
20 conservation improvements, projects, and implementation of the water
21 quality program for agriculture. Such application shall be filed in such a
22 manner and shall be in such form, and be accompanied by such information as
23 may be prescribed by the ~~commission~~ division; provided, however, that any
24 such application filed with the ~~district or the commission~~ division under
25 the provisions of this section shall:

26 (a) Describe the nature and purpose of the improvements or conservation
27 plan implementation project;

28 (b) Set forth or be accompanied by an improvement project plan
29 approved by the local soil conservation district ~~or the commission~~ that
30 identifies the practices to be applied, together with such technical
31 and economic feasibility data and estimated costs as may be required by
32 the ~~commission~~ division;

33 (c) State whether money other than that for which application is made
34 under this section will be used for improvement project or conservation
35 plan implementation costs, and whether such money is available or has
36 been sought for this purpose; and

37 (d) Show that the applicant or participant holds or can acquire title to
38 all lands or has necessary easements and rights-of-way to implement the
39 project plan.

40 (2) The ~~commission and~~ division shall keep the local soil conservation
41 districts will keep each other informed of grant applications received.
42 Within thirty (30) days of receipt of an application, the ~~local soil~~
43 conservation district or the ~~commission~~ division, in consultation with
44 the local soil conservation district, shall review and evaluate and, if
45 deemed necessary, investigate all aspects of the proposed improvement,
46 project or conservation plan. As part of such investigation, the district
47 or the ~~commission~~ division shall determine whether the project plan is
48 satisfactory. If the district or the ~~commission~~ division determines that

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1 the plan is unsatisfactory, ~~it~~ the division shall return the application to
2 the applicant or participant and the district or the ~~commission~~ division may
3 make such recommendations to the applicant or participant as are considered
4 necessary to make the plan satisfactory. If the ~~commission~~ division
5 determines either the plan or a plan revised pursuant to recommendation of
6 the district or ~~commission~~ division is satisfactory, it shall be considered
7 for funding.

8 (3) The ~~commission~~ division may approve a grant if after review,
9 evaluation, and investigation if necessary, it finds that:

10 (a) The applicant or participant is qualified and responsible;

11 (b) The improvement, project, or conservation plan demonstrates public
12 benefits; and

13 (c) That money in the ~~state soil conservation commission~~ Idaho
14 department of agriculture general fund is available for the grant.

15 (4) If the ~~commission~~ division approves a grant, the applicant or
16 participant shall enter into an agreement covering the grant offer and
17 acceptance of the grant for implementing the improvement, project, or
18 conservation plan. The agreement shall be improvement, project, or
19 conservation plan specific. The terms and conditions shall be those
20 specified by the ~~commission~~ division.

21 (5) Upon approval of the grant and securing all necessary documents,
22 the ~~commission~~ division will make available, in the approved form, project
23 or contract funding.

24 SECTION 17. That Section 22-2734, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 22-2734. COST-SHARE FROM ~~STATE SOIL CONSERVATION COMMISSION~~ IDAHO
27 DEPARTMENT OF AGRICULTURE GENERAL FUND -- APPLICATION -- APPROVAL. (1)
28 Eligible applicants or participants may file an application with the ~~local~~
29 ~~soil conservation district or the state soil conservation commission~~
30 division for a cost-share contract or project from the ~~state soil~~
31 ~~conservation commission~~ Idaho department of agriculture general fund
32 for the purpose of financing agricultural, grazing or other conservation
33 improvements, projects or implementation of the water quality program for
34 agriculture. Such application shall be filed in such a manner and shall be in
35 such form and be accompanied by such information as may be prescribed by the
36 ~~commission~~ division; provided however, that any such application filed with
37 the ~~district or the commission~~ division under the provisions of this section
38 shall:

39 (a) Describe the nature and purposes of the improvements and projects
40 requiring cost-sharing;

41 (b) Set forth or be accompanied by a plan that identifies the
42 conservation improvements or projects, together with such technical
43 and economic feasibility data and estimated costs as may be required by
44 the ~~commission~~ division;

45 (c) State whether money other than that for which application is made
46 under this section will be used for costs, and whether such money is
47 available or has been sought for this purpose; and

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(d) Show the proposed project is feasible from a technical standpoint and is economically justified.

(2) The ~~commission and division~~ shall keep the local soil conservation districts ~~will keep each other~~ informed of cost-share applications received. Within thirty (30) days of receipt of an application, the ~~local soil conservation district or the commission division~~, in consultation with the local soil conservation district shall review and evaluate and, if deemed necessary, investigate all aspects of the proposed contract or project. As part of such investigation, the district or the ~~commission division~~ shall determine whether the plan for development of the conservation improvements or projects is satisfactory. If the district or the ~~commission division~~ determines the plan is unsatisfactory, ~~it the~~ ~~division~~ shall return the application to the applicant or participant and the district or the ~~commission division~~ may make such recommendations to the applicant or participant as are considered necessary to make the application satisfactory. When the ~~commission division~~ determines either the application or an application revised pursuant to recommendation of the district or ~~commission division~~ is satisfactory, it shall be considered for funding.

(3) The ~~commission division~~ may approve a cost-share contract to an applicant or participant for conservation projects and improvements if, after review, evaluation and investigation, it finds that:

(a) The applicant or participant is qualified and responsible;

(b) The conservation improvement or project demonstrates public benefit;

(c) There is reasonable assurance that the applicant or participant will adhere to contract terms; and

(d) Money is available in the ~~state soil conservation commission~~ Idaho department of agriculture general fund for cost-share.

(4) Upon approval of the cost-share contract or cost-share grant, and securing of all necessary documents, the ~~commission division~~ will make funding available.

SECTION 18. That Section 22-2735, Idaho Code, be, and the same is hereby amended to read as follows:

22-2735. ~~PAYMENTS BY THE STATE SOIL CONSERVATION COMMISSION DIVISION OF RESOURCE CONSERVATION~~ -- RULES -- APPROVAL OF ATTORNEY GENERAL -- AUDIT OF PAYMENTS. (1) The ~~commission division~~ may make payments not to exceed the estimated reasonable cost of an eligible improvement, project, or plan.

(2) The ~~commission division~~ may, in the name of the state of Idaho, enter into contracts with approved applicants, and any such approved applicants may enter into a contract with the ~~commission division~~ concerning eligible improvements, projects or plans. Any such contract may include such provisions as may be agreed upon by the parties thereto, and shall include, in substance, the following provisions:

(a) An estimate of the reasonable cost of the improvements, projects, or plans as determined by the ~~commission division~~;

(b) The terms under which the ~~commission division~~ may unilaterally terminate the contract and/or seek repayment from the application

1 of sums already paid pursuant to the contract for noncompliance by
2 the applicant with the terms and conditions of the contract and the
3 provisions of this chapter;

4 (c) An agreement by the applicant binding for the life of the eligible
5 improvements, projects or plans:

6 (i) To develop water quality plans for landowners and provide
7 payments to landowners for installation of best management
8 practices;

9 (ii) To determine payment rates in conjunction with the
10 ~~commission~~ division for best management practices;

11 (iii) To establish a method for administration and provisions
12 for technical assistance to landowners in conjunction with the
13 ~~commission~~ division;

14 (iv) To allow the state to make payments up to the estimated
15 reasonable cost for best management practices installation,
16 technical assistance and project administration of an eligible
17 project;

18 (v) To develop and to secure the approval of the ~~commission~~
19 division of plans for operation of the eligible project;

20 (vi) To ensure that the local matching share of the cost is
21 provided as applicable;

22 (vii) To assure an adequate level of landowner participation and
23 application of best management practices to ensure water quality
24 goals are met.

25 (3) The ~~commission~~ division may enter into contracts to provide
26 technical assistance to applicants that have entered agreements pursuant
27 to this chapter. Any such contract may include such provisions agreed upon
28 by the parties thereto, and shall include, in substance, the following
29 provisions:

30 (a) An estimate of the reasonable cost of technical assistance;

31 (b) The terms under which the ~~commission~~ division may unilaterally
32 terminate the contract, and/or seek repayment of sums paid pursuant
33 to the contract, for noncompliance by the applicants with the terms
34 and conditions of the contract, the provisions of this chapter, or the
35 department's rules adopted pursuant thereto.

36 (4) The ~~commission~~ division may enter into contracts and establish
37 procedures to be followed in applying for eligible improvements, projects
38 and plans herein authorized as shall be necessary for the effective
39 administration of the water quality program for agriculture.

40 (5) All contracts entered into pursuant to this section shall be
41 subject to approval by the attorney general as to form. All payments by
42 the state pursuant to such contracts shall be made after audit and upon
43 warrant as provided by law on vouchers approved by the ~~(the)~~ director of the
44 department of agriculture.

45 (6) All grant agreements and contracts previously entered into with
46 the state board of health and welfare, soil conservation districts and the
47 ~~commission~~ division pursuant to section 39-3627, Idaho Code, for payments
48 and administration are now to be administered and payments implemented
49 solely by the ~~commission~~ division.

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1 SECTION 19. That Section 22-5201, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 22-5201. LEGISLATIVE INTENT. Increasing levels of carbon dioxide and
4 other greenhouse gases in the atmosphere have led to growing interest in
5 national and international forums for implementing measures to slow and
6 reverse the buildup of such atmospheric constituents. Such measures may
7 potentially include the establishment of systems of trading in credits for
8 adoption of practices, technologies or other measures which decrease net
9 emissions of carbon dioxide. Improved agricultural and timber production
10 methods, soil and forest conservation practices and other methods of
11 stewardship of soil and other land resources have great potential to
12 increase carbon sequestration on agricultural and private forest lands and
13 help offset carbon dioxide emissions from other sectors of the economy.
14 It is in the interest of agricultural producers, nonindustrial private
15 forest landowners and the public in general that the ~~soil conservation~~
16 ~~commission~~ division of resource conservation document and quantify
17 carbon sequestration and greenhouse emissions reductions associated with
18 agricultural and forestry practices, management systems and land uses
19 occurring on cropland, forest land and rangeland in Idaho. It is the intent
20 of the legislature that efforts to quantify and verify carbon sequestration
21 on agricultural and forest lands will enhance the ability of the state's
22 agricultural and nonindustrial private forest landowners to participate in
23 any system of carbon sequestration marketing or trading.

24 SECTION 20. That Section 22-5202, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 22-5202. CARBON SEQUESTRATION ADVISORY COMMITTEE CREATED --
27 MEMBERSHIP -- COMPENSATION -- ADMINISTRATIVE ASSISTANCE. (1) The carbon
28 sequestration advisory committee is hereby created. The committee shall
29 consist of the following nineteen (19) members, to be appointed by and serve
30 at the pleasure of the governor:

- 31 (a) The ~~chairman~~ administrator of the ~~soil conservation commission~~
32 division of resource conservation or his designee;
33 (b) The director of the department of agriculture or his designee;
34 (c) The director of the department of environmental quality or his
35 designee;
36 (d) The director of the department of lands or his designee;
37 (e) One (1) member representing the University of Idaho college of
38 agriculture;
39 (f) One (1) member representing an entity which generates electrical
40 energy;
41 (g) Two (2) members who are producers of field crops, at least one (1)
42 of whom actively employs a minimum tillage management system in his
43 farming operation;
44 (h) Two (2) members who are producers of livestock, at least one (1) of
45 whom is actively involved in implementing a rangeland improvement plan;
46 (i) One (1) member with expertise in carbon sequestration marketing or
47 trading;

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1 (j) One (1) member representing soil conservation districts, as
2 defined in section 22-2717, Idaho Code;
3 (k) One (1) member representing the biofuels industry;
4 (l) One (1) member representing the transportation industry;
5 (m) One (1) member representing an environmental protection or
6 conservation organization;
7 (n) One (1) member representing nonindustrial private forest
8 landowners;
9 (o) One (1) member representing American Indian tribal interests;
10 (p) One (1) member whose expertise is geology; and
11 (q) One (1) member whose expertise is economics.
12 (2) Members of the committee shall be compensated as provided in
13 section 59-509(b), Idaho Code.
14 (3) The ~~soil conservation commission~~ division of resource conservation
15 shall assist the committee with administrative support as reasonably
16 requested by the committee.

17 SECTION 21. That Section 22-5203, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 22-5203. POWERS AND DUTIES OF THE CARBON SEQUESTRATION ADVISORY
20 COMMITTEE. The carbon sequestration advisory committee may:

21 (1) Advise and assist the ~~chairman~~ administrator of the ~~soil~~
22 ~~conservation commission~~ division of resource conservation in preparing the
23 reports required by this chapter and in conducting the assessment pursuant
24 to section 22-5205, Idaho Code;

25 (2) Recommend policies or programs to enhance the ability of Idaho
26 agricultural and nonindustrial private forest landowners to participate in
27 systems of carbon trading. Such recommendations shall include potential
28 policies or programs designed to optimize economic benefits to agricultural
29 producers and nonindustrial private forest landowners participating in
30 carbon trading transactions. Such policies or programs may include, but are
31 not limited to, identifying existing or the potential of creating nonprofit
32 organizations or other public or private entities capable of serving as
33 assemblers of carbon credits or as intermediaries on behalf of producers in
34 carbon trading systems;

35 (3) Encourage the production of educational and advisory materials
36 regarding carbon sequestration on agricultural and forest lands and
37 participation in systems of carbon or greenhouse emissions trading;

38 (4) Identify and recommend areas of research needed to better
39 understand and quantify the processes of carbon sequestration on
40 agricultural and forest lands; and

41 (5) Review the carbon sequestration programs and policies of other
42 states.

43 SECTION 22. That Section 22-5205, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 22-5205. POWERS AND DUTIES OF THE ~~CHAIRMAN~~ ADMINISTRATOR. (1) In
46 consultation with the carbon sequestration advisory committee, the ~~chairman~~

1 administrator of the ~~soil conservation commission~~ division of resource
2 conservation shall assess agricultural and private forest lands in Idaho
3 for past carbon sequestration and future carbon sequestration potential.
4 The assessment shall seek to quantify carbon sequestration associated with
5 various agricultural and forestry practices, management systems and land
6 uses occurring on agricultural and forest lands in this state. On or before
7 March 1, 2003, the chairman shall publish a report of the findings. From time
8 to time, the ~~chairman~~ administrator may update the findings as advancements
9 in understanding of the processes of carbon sequestration and new data
10 become available.

11 (2) The assessment shall be conducted in a manner that shall provide
12 a means for owners of agricultural and forest land to estimate past and
13 future net carbon sequestration resulting from agricultural and forestry
14 practices, conservation measures, management systems and land uses
15 occurring on their property. The ~~chairman~~ administrator of the ~~soil~~
16 ~~conservation commission~~ division of resource conservation may contract and
17 cooperate with the natural resources conservation service of the United
18 States department of agriculture to conduct assessment activities provided
19 for in this section.

20 (3) The ~~soil conservation commission~~ division of resource conservation
21 may apply for and accept grants, gifts or other sources of public and private
22 funds to carry out the purposes of this chapter.

23 SECTION 23. That Section 22-5206, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 22-5206. CARBON SEQUESTRATION ASSESSMENT FUND CREATED. - There is
26 hereby created and established in the state treasury a fund to be known as
27 the "Carbon Sequestration Assessment Fund," which shall consist of such
28 funds, grants, donations or moneys from other sources. The fund shall
29 be administered by the ~~soil conservation commission~~ division of resource
30 conservation in order to carry out the purposes of this chapter. Moneys in
31 the fund may be expended pursuant to appropriation. Any interest earned on
32 the investment of idle moneys in the fund shall be returned to the fund.

33 SECTION 24. That Section 36-2404, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 36-2404. STATE DELISTING MANAGEMENT PLAN REQUIREMENTS. (1) The
36 delisting advisory team shall develop a state management plan for a
37 species in response to all notification of intent to delist the species
38 by the secretary of interior or secretary of commerce or sooner if deemed
39 appropriate. The state management plan shall provide for the management
40 and conservation of the species once it is delisted, and contain sufficient
41 safeguards to protect the health, safety, private property and economic
42 well-being of the citizens of the state of Idaho.

43 (2) The department of fish and game shall provide the delisting
44 advisory teams, the informational, technical or other needs and
45 requirements of those teams in the performance of their duties.

(3) In developing state delisting management plans, the delisting advisory team shall consult with the appropriate state agencies, commissions and boards. The appropriate state agency for wildlife biological and species management issues, and for plant life biological and species management issues is the department of fish and game. The appropriate state agency for timber harvest activities, oil and gas exploration activities and for mining activities is the department of lands. The appropriate state agency for agricultural activities ~~are~~ is the department of agriculture ~~and the soil conservation commission~~. The appropriate state agency for public road construction is the transportation department. The appropriate state agency for water rights is the department of water resources. The appropriate state agency for water quality is the department of environmental quality. The appropriate state agency for outfitting and guiding activities is the Idaho outfitters and guides licensing board.

SECTION 25. That Section 39-3602, Idaho Code, be, and the same is hereby amended to read as follows:

39-3602. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Applicable water quality standard" means those water quality standards identified in the rules of the department.

(2) "Attainable" beneficial uses means uses that can be achieved by the implementation of required effluent limits for point sources and cost-effective and reasonable best management practices for nonpoint sources.

(3) "Best management practice" means practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(4) "Board" means the board of environmental quality.

(5) "Control strategies" means cost-effective actions in TMDL implementation plans to control the discharge of pollutants that can reasonably be taken to improve the water quality within the physical, operational, economic and other constraints that affect individual enterprises and communities.

(6) "Department" means the department of environmental quality.

(7) "Designated agency" means the department of lands for timber harvest activities, for oil and gas exploration and development and for mining activities; ~~the soil conservation commission~~ department of agriculture for grazing activities and for agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the department of environmental quality for all other activities.

(8) "Designated use or designated beneficial use" means those uses assigned to waters as identified in the rules of the department whether or

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1 not the uses are being attained. The department may adopt subcategories of
2 a use.

3 (9) "Director" means the director of the department of environmental
4 quality, or his or her designee.

5 (10) "Discharge" means any spilling, leaking, emitting, escaping,
6 leaching, or disposing of a pollutant into the waters of the state. For the
7 purposes of this chapter, discharge shall not include surface water runoff
8 from nonpoint sources or natural soil disturbing events.

9 (11) "Existing use" means those surface water uses actually attained
10 on or after November 28, 1975, whether or not they are designated uses.
11 Existing uses may form the basis for subcategories of designated uses.

12 (12) "Full protection, full support, or full maintenance of designated
13 beneficial uses of water" means compliance with those levels of water
14 quality criteria listed in the appropriate rules of the department, or where
15 there is no applicable numerical criteria, compliance with the reference
16 streams or conditions approved by the director in consultation with the
17 appropriate basin advisory group.

18 (13) "Lower water quality" means a measurable adverse change in
19 a chemical, physical, or biological parameter of water relevant to a
20 designated beneficial use, and which can be expressed numerically.
21 Measurable adverse change is determined by a statistically significant
22 difference between sample means using standard methods for analysis and
23 statistical interpretation appropriate to the parameter. Statistical
24 significance is defined as the ninety-five percent (95%) confidence limit
25 when significance is not otherwise defined for the parameter in standard
26 methods or practices.

27 (14) "National pollutant discharge elimination system (NPDES)" means
28 the point source permitting program established pursuant to section 402 of
29 the federal clean water act.

30 (15) "New nonpoint source activity" means a new nonpoint source
31 activity or a substantially modified existing nonpoint source activity on
32 or adversely affecting an outstanding resource water which includes, but
33 is not limited to, new silvicultural activities, new mining activities and
34 substantial modifications to an existing mining permit or approved plan,
35 new recreational activities and substantial modifications to existing
36 recreational activities, new residential or commercial development that
37 includes soil disturbing activities, new grazing activities and substantial
38 modifications to existing grazing activities, except that reissuance of
39 existing grazing permits, or grazing activities and practices authorized
40 under an existing permit, is not considered a new activity. It does not
41 include naturally occurring events such as floods, landslides, and wildfire
42 including prescribed natural fire.

43 (16) "Nonpoint source activities" includes grazing, crop production,
44 silviculture, log storage or rafting, construction, mining, recreation,
45 septic systems, runoff from storms and other weather related events and
46 other activities not subject to regulation under the federal national
47 pollutant discharge elimination system. Nonpoint source activities on
48 waters designated as outstanding resource waters do not include issuance of
49 water rights permits or licenses, allocation of water rights, operation of
50 diversions, or impoundments.

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1 (17) "Nonpoint source runoff" means water which may carry pollutants
2 from nonpoint source activities into the waters of the state.

3 (18) "Outstanding resource water" means a high quality water, such
4 as water of national and state parks and wildlife refuges and water of
5 exceptional recreational or ecological significance, which has been so
6 designated by the legislature. It constitutes an outstanding national
7 or state resource that requires protection from point source and nonpoint
8 source activities that may lower water quality.

9 (19) "Person" means any individual, association, partnership, firm,
10 joint stock company, joint venture, trust, estate, political subdivision,
11 public or private corporation, state or federal governmental department,
12 agency or instrumentality, or any legal entity, which is recognized by law as
13 the subject of rights and duties.

14 (20) "Point source" means any discernible, confined, and discrete
15 conveyance including, but not limited to, any pipe, ditch, channel, tunnel,
16 conduit, well, discrete fissure, container, rolling stock, concentrated
17 animal feeding operation, or vessel or other floating craft, from which
18 pollutants are, or may be, discharged. This term does not include return
19 flows from irrigated agriculture, discharges from dams and hydroelectric
20 generating facilities or any source or activity considered a nonpoint source
21 by definition.

22 (21) "Pollutant" means dredged spoil, solid waste, incinerator
23 residue, sewage, garbage, sewage sludge, munitions, chemical waste,
24 biological materials, radioactive materials, heat, wrecked or discarded
25 equipment, rock, sand, silt, cellar dirt; and industrial, municipal and
26 agricultural waste, gases entrained in water; or other materials which, when
27 discharged or released to water in excessive quantities cause or contribute
28 to water pollution. Provided however, biological materials shall not
29 include live or occasional dead fish that may accidentally escape into the
30 waters of the state from aquaculture facilities.

31 (22) "Reference stream or condition" means one (1) of the following:

32 (a) The minimum biological, physical and chemical conditions necessary
33 to fully support the designated beneficial uses; or

34 (b) A water body representing natural conditions with few impacts from
35 human activities and which are representative of the highest level of
36 support attainable in the basin; or

37 (c) A water body representing minimum conditions necessary to fully
38 support the designated beneficial uses.

39 In highly mineralized areas or in the absence of such reference streams
40 or water bodies, the director, in consultation with the basin advisory
41 group and the technical advisers to it, may define appropriate hypothetical
42 reference conditions or may use monitoring data specific to the site in
43 question to determine conditions in which the beneficial uses are fully
44 supported.

45 (23) "Short-term or temporary activity" means an activity which is
46 limited in scope and is expected to have only minimal impact on water quality
47 as determined by the director. Short-term or temporary activities include,
48 but are not limited to, maintenance of existing structures, limited road and
49 trail reconstruction, soil stabilization measures, and habitat enhancement
50 structures.

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1 (24) "Silviculture" means those activities associated with the
2 regeneration, growing and harvesting of trees and timber including, but not
3 limited to, disposal of logging slash, preparing sites for new stands of
4 trees to be either planted or allowed to regenerate through natural means,
5 road construction and road maintenance, drainage of surface water which
6 inhibits tree growth or logging operations, fertilization, application of
7 herbicides or pesticides, all logging operations, and all forest management
8 techniques employed to enhance the growth of stands of trees or timber.

9 ~~(25) "Soil conservation commission" means an agency of state government~~
10 ~~as created in section 22-2718, Idaho Code.~~

11 ~~(26)~~ "Soil conservation district" means an entity of state government
12 as defined in section 22-2717, Idaho Code.

13 (276) "State" means the state of Idaho.

14 ~~(287)~~ "State water quality management plan" means the state management
15 plan developed and updated by the department in accordance with sections
16 205, 208, and 303 of the federal clean water act.

17 (298) "Subbasin assessment" means a document that describes a watershed
18 or watersheds for which a total maximum daily load is proposed, the water
19 quality concerns, the status and attainability of designated uses and water
20 quality criteria for individual water bodies, the nature and location of
21 pollutant sources, past and ongoing pollutant control activities, and such
22 other information that the director with the advice of the local watershed
23 advisory group determines is pertinent to the analysis of water quality and
24 the development and implementation of a total maximum daily load.

25 ~~(3029)~~ "Total maximum daily load (TMDL)" means a plan for a water body
26 not fully supporting designated beneficial uses and includes the sum of the
27 individual wasteload allocations for point sources, load allocations for
28 nonpoint sources, and natural background levels of the pollutant impacting
29 the water body. Pollutant allocations established through TMDLs shall be at
30 a level necessary to implement the applicable water quality standards for
31 the identified pollutants with seasonal variations and a margin of safety to
32 account for uncertainty concerning the relationship between the pollutant
33 loading and water quality standards.

34 ~~(310)~~ "Waters or water body" means all the accumulations of surface
35 water, natural and artificial, public and private, or parts thereof which
36 are wholly or partially within, flow through or border upon this state.
37 For the purposes of this chapter, water bodies shall not include municipal
38 or industrial wastewater treatment or storage structures or private
39 reservoirs, the operation of which has no effect on waters of the state.

40 ~~(321)~~ "Water pollution" is such alteration of the thermal, chemical,
41 biological or radioactive properties of any waters of the state, or such
42 discharge or release of any contaminant into the waters of the state as
43 will or is likely to create a nuisance or render such waters harmful or
44 detrimental or injurious to public health, safety or welfare or to domestic,
45 commercial, industrial, recreational, aesthetic or other legitimate uses or
46 to livestock, wild animals, birds, fish or other aquatic life.

47 ~~(332)~~ "Water quality standards" are the designated uses of a water
48 body and water quality criteria necessary to support those uses, and an
49 antidegradation policy.

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1 (343) "Watersheds" means the land area from which water flows into a
2 stream or other body of water which drains the area. For the purposes of this
3 chapter, the area of watersheds shall be recommended by the basin advisory
4 group described in section 39-3613, Idaho Code.

5 SECTION 26. That Section 39-6407, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 39-6407. TECHNICAL ADVISORY GROUP. To assist in its objectives,
8 the council shall create a technical advisory group which may include
9 the designated representatives of the public health district, city and
10 county planning or engineering departments, ~~D~~department of ~~E~~environmental
11 ~~E~~quality, ~~D~~department of ~~L~~lands, ~~D~~department of ~~F~~fish and ~~G~~game,
12 ~~D~~department of ~~P~~parks and ~~R~~recreation, ~~D~~department of ~~W~~water ~~R~~resources,
13 ~~State Soil Conservation Commission~~ department of agriculture, United States
14 ~~F~~forest ~~S~~service, United States ~~B~~bureau of ~~L~~land ~~M~~management, United States
15 ~~A~~army ~~C~~orps of ~~E~~engineers, United States ~~A~~gricultural ~~C~~onservation
16 and ~~S~~tabilization ~~S~~ervices, United States ~~E~~nvironmental ~~P~~rotection
17 ~~A~~gency, United States ~~G~~eological ~~S~~urvey or any one (1) or more of said
18 agencies and such representatives of agriculture, conservation, forest
19 products, sportsmen and mining interests as may be appointed by the county.
20 Indian tribes may nominate a representative for the technical advisory group
21 to the county for appointment to the group. Members shall serve without
22 state compensation except such normal compensation received by members
23 who are state employees serving in the normal course and scope of their
24 employment.

25 SECTION 27. That Section 39-6609, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 39-6609. TECHNICAL COMMITTEE. To assist in the development of its
28 program, the council shall create a technical committee which may include
29 but is not exclusively limited to designated representatives of the public
30 health district, city and county planning or engineering departments, the
31 county planning and zoning commission, the McCall water and sewer district,
32 department of environmental quality, department of lands, department of
33 fish and game, department of parks and recreation, department of water
34 resources, ~~state soil conservation commission~~ department of agriculture,
35 United States forest service, United States army corps of engineers, United
36 States agricultural conservation and stabilization services, United States
37 ~~soil~~ natural resources conservation service, United States geological
38 survey, United States environmental protection agency and representatives
39 proposed by interests in agriculture, environmental protection, forest
40 products, sporting and mining. Indian tribes may nominate a representative
41 for the technical committee. Members shall serve without state compensation
42 except such normal compensation received by members who are state, city,
43 county, district or federal employees serving in the normal course and scope
44 of their employment.

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1 SECTION 28. That Section 42-3703, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 42-3703. DEFINITIONS. Whenever used or referred to in this act, unless
4 a different meaning clearly appears from the context, the following terms
5 shall have the following meanings:

6 1. "District" or "watershed improvement district" means a governmental
7 subdivision of this state and a public body corporate and politic organized
8 in accordance with the provisions of this act for the purposes, with the
9 powers, and subject to the restrictions hereinafter set forth.

10 2. "Director" means one of the members of the governing body of a
11 district elected or appointed in accordance with the provisions of this act.

12 3. ~~"Commission" or "state soil conservation commission"~~ "Division of
13 resource conservation" means the nonregulatory agency created in section
14 22-2718, Idaho Code.

15 4. "Petition" means a petition filed under the provisions of section
16 42-3705, Idaho Code, for the creation of a district.

17 5. "Nominating petition" means a petition filed under the provisions
18 of section 42-3706, Idaho Code, to nominate a candidate for the office of
19 director of a watershed improvement district.

20 6. "State" means the state of Idaho.

21 7. "Landowner" includes any person, firm or corporation who shall hold
22 title to any lands lying within a district organized under the provisions of
23 this act. A contract purchaser who is occupying the land shall be construed
24 as a landowner.

25 8. "Qualified elector" means any natural person residing within the
26 boundaries of the state of Idaho, owning land within the boundaries of the
27 district, and qualified under the laws of this state to vote in an election
28 by the people.

29 SECTION 29. That Section 42-3705, Idaho Code, be, and the same is hereby
30 amended to read as follows:

31 42-3705. CREATION OF WATERSHED IMPROVEMENT DISTRICTS. Any fifteen
32 (15) owners of land lying within the limits of the territory proposed to be
33 organized into a watershed improvement district may file a petition with
34 the ~~state soil conservation commission~~ division of resource conservation
35 asking that a watershed improvement district be organized to function in the
36 territory described in the petition. In the event that there are less than
37 fifteen (15) persons owning land lying within the limits of the territory
38 proposed to be organized into a district, then and in that case such petition
39 will be deemed sufficient if it contains the signatures of two-thirds (2/3)
40 of the owners of land and representing two-thirds (2/3) of the acreage of
41 land lying within the limits of the said territory. Such petition shall set
42 forth:

43 1. A description of the territory proposed to be organized as
44 a watershed improvement district, which description shall be deemed
45 sufficient if generally accurate.

1 2. That there is need, in the interest of the public health, safety,
2 and general welfare for a watershed improvement district to function in the
3 territory described in the petition.

4 3. The proposed name of said district.

5 4. A request that the ~~state soil conservation commission~~ division of
6 resource conservation duly define the boundaries for such district; that
7 an election be held within the territory so defined on the question of the
8 creation of a watershed improvement district in such territory.

9 After such petition has been filed with the ~~state soil conservation~~
10 ~~commission~~ division of resource conservation it shall be the duty of the
11 ~~commission~~ division to define by metes and bounds or by legal subdivisions
12 the boundaries of such proposed district, and to hold an election, subject to
13 the provisions of section 34-106, Idaho Code, within the proposed district
14 upon the proposition of the creation of the district, and to cause notice
15 of such election to be given. The question shall be submitted by ballots
16 upon which the words "For creation of a watershed improvement district of
17 the lands below described and lying in the county(ies) of . . . , . . . and
18" and "Against creation of a watershed improvement district of the lands
19 below described and lying in the county(ies) of . . . , . . . and" shall
20 appear with a square before each proposition and a direction to insert an X
21 mark in the square before one or the other of said propositions as the voter
22 may favor or oppose creation of such district. The ballot shall set forth
23 the boundaries of such proposed district as determined by the ~~state soil~~
24 ~~conservation commission~~ division of resource conservation.

25 All qualified electors who own land within the proposed district shall
26 be eligible to vote in the election.

27 The ~~state soil conservation commission~~ division of resource
28 conservation shall pay all expenses of, and supervise the conduct of, such
29 election. The ~~commission~~ division of resource conservation shall conduct
30 the election as provided in chapter 14, title 34, Idaho Code. No informality
31 in the conduct of such election or in any matter relating thereto shall
32 invalidate said election or the result thereof if notice thereof shall have
33 been given substantially as herein provided, and said election shall have
34 been fairly conducted.

35 If the election shall result in a majority of votes being cast in favor
36 of the creation of such proposed district the ~~state soil conservation~~
37 ~~commission~~ division of resource conservation shall proceed with the
38 organization of the district in the manner hereinafter provided, to wit:

39 1. The ~~state soil conservation commission~~ division of resource
40 conservation shall appoint one (1) director to act with the two (2) directors
41 elected as hereinafter provided, which said directors shall be the governing
42 body of the district.

43 2. The ~~state soil conservation commission~~ division of resource
44 conservation shall present to the secretary of state a certificate stating:

45 (a) That a petition for the creation of said district was filed with the
46 ~~state soil conservation commission~~ division of resource conservation.

47 (b) The name and residence of the directors appointed by said
48 ~~commission~~ division.

49 (c) The name which is proposed for said district.

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1 (d) That an election on such petition was held, and that the majority of
2 votes cast in said election favored the formation of the district.

3 The secretary of state shall receive, file and record said
4 certificate of the ~~state soil conservation commission~~ division of resource
5 conservation, and when said certificate shall be filed and recorded the
6 district shall constitute a governmental subdivision of this state and a
7 public body corporate and politic. The secretary of state shall make and
8 issue to the said directors a certificate of the due organization of the said
9 district.

10 SECTION 30. That Section 42-3706, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 42-3706. ELECTION OF DISTRICT DIRECTORS. After the date of issuance
13 of the secretary of state of a certificate of organization of a watershed
14 improvement district nominating petitions may be filed with the ~~state soil~~
15 ~~conservation commission~~ division of resource conservation to nominate
16 candidates for directors of such district. The ~~state soil conservation~~
17 ~~commission~~ division of resource conservation shall give notice of an
18 election to be held, subject to the provisions of section 34-106, Idaho
19 Code, for the election of two (2) directors for the district. The names of
20 all nominees on behalf of whom such nominating petitions have been filed in
21 the manner provided in section 34-1404, Idaho Code, shall appear arranged
22 in the alphabetical order of the surnames upon ballots with a square before
23 each name, and direction to insert an X mark in the square before any two
24 (2) names to designate the voter's preference. All qualified electors who
25 own land or reside within the proposed district shall be eligible to vote
26 in said election. The two (2) candidates who shall receive the largest
27 number respectively of the votes cast in such election shall be elected for
28 such district. The ~~state soil conservation commission~~ division of resource
29 conservation shall pay all the expenses of such election, supervise the
30 conduct thereof, and publish the results thereof in accordance with the
31 provisions of chapter 14, title 34, Idaho Code. All elections in existing
32 districts following the first election shall be conducted by the district
33 directors of the district involved who shall give notice of such elections
34 and who shall bear the cost thereof.

35 In any election for director, if after the deadline for filing a
36 declaration of intent as a write-in candidate, it appears that the number of
37 qualified candidates who have been nominated for director positions is equal
38 to the number of directors to be elected, it shall not be necessary for the
39 candidates to stand for election, and the board of directors shall declare
40 such candidates elected as directors, and the secretary of the district
41 shall immediately make and deliver to such persons certificates of election.

42 SECTION 31. That Section 42-3707, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 42-3707. APPOINTMENT, QUALIFICATIONS AND TENURE OF DIRECTORS. The
45 governing body of the district shall consist of three (3) directors elected
46 or appointed as provided hereinabove. The director appointed by the

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1 ~~commission~~ division of resource conservation shall be an owner of land
2 within the district and shall be a person who by training and experience is
3 qualified to perform the specialized service which will be required in the
4 performance of his duties hereunder. The term of office of each director
5 shall be four (4) years, except that the director first appointed by the
6 ~~state soil conservation commission~~ division of resource conservation shall
7 be designated to serve for a term of two (2) years from the date of his
8 appointment. A director shall hold office until his successor has been
9 elected or appointed, and has qualified. Vacancies shall be filled for
10 an unexpired term by a majority of the directors duly qualified and acting
11 at the time the vacancy shall arise. A majority of the directors shall
12 constitute a quorum and the concurrence of a majority in any matter within
13 their duties shall be required for its determination. A director shall
14 receive no compensation for his service, but shall be entitled to expenses,
15 including traveling expenses necessarily incurred in the discharge of his
16 duties.

17 The directors may employ a secretary, technical experts, and such other
18 employees, permanent and temporary, as they may require, and shall determine
19 their qualifications, duties, and compensation. The directors may employ
20 their own counsel and legal staff. The directors may delegate to their
21 chairman, to one or more directors, or to agents or employees such powers and
22 duties as they may deem proper and necessary. The directors shall furnish to
23 the ~~state soil conservation commission~~ division of resource conservation,
24 upon request, copies of such documents or other information concerning
25 ~~their~~ the directors' activities as said ~~commission~~ division may require
26 in the performance of its duties under this ~~act~~ chapter. The directors
27 shall provide for the keeping of a record of all proceedings, resolutions,
28 regulations and orders issued or adopted; shall provide for an annual audit
29 of its accounts, and shall provide for the execution of surety bonds by any
30 employee or officer who shall be entrusted with funds or property of the
31 district.

32 SECTION 32. That Section 42-3717, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 42-3717. DISCONTINUANCE OF DISTRICTS. At any time after three (3)
35 years after the organization of a district under the provisions of this
36 chapter any twenty-five (25) qualified electors or owners of land lying
37 within the boundaries of such district or, if less than twenty-five (25)
38 owners of land or qualified electors reside within the boundaries of such
39 district it would be deemed sufficient if two-thirds (2/3) of the resident
40 group, may file a petition with the ~~state soil conservation commission~~
41 ~~praying~~ division of resource conservation requesting that the operations of
42 the district be terminated and the existence of the district discontinued.
43 After such petition has been received by the ~~state soil conservation~~
44 ~~commission~~ division of resource conservation it shall give notice of the
45 holding of an election, subject to the provisions of section 34-106, Idaho
46 Code, which the said ~~commission~~ division shall supervise and govern the
47 conduct in accordance with the provisions of chapter 14, title 34, Idaho
48 Code. The question to be submitted by ballots upon which the words "For

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1 terminating the existence of the (name of the watershed improvement district
2 to be here inserted) " and "Against terminating the existence of the (name of
3 the watershed improvement district to be inserted here)" shall appear with
4 a square before each proposition, and a direction to insert an X mark in the
5 square before one or the other of said propositions as the voter may favor
6 or oppose discontinuance of such district. All qualified electors who own
7 land or reside within the proposed district shall be eligible to vote in said
8 election. No informality in the conduct of such election or in any matters
9 relating thereto shall invalidate said election or the result thereof if
10 notice thereof shall have been given as herein provided, and said election
11 shall have been fairly conducted.

12 The ~~state soil conservation commission~~ division of resource
13 conservation shall certify the result of such election to the directors
14 of the district. If the ~~state soil conservation commission~~ division of
15 resource conservation shall certify that a majority of the votes cast in
16 said election favor the discontinuance of the existence of the district, the
17 directors of the district shall forthwith proceed to terminate the affairs
18 of the district. Any moneys remaining in the treasury of said district
19 following the winding up of the affairs of the district shall be paid by the
20 directors into the state treasury. The directors shall file an application
21 duly verified with the secretary of state for the discontinuance of such
22 district which shall recite that the affairs of the district have been wound
23 up, and shall set forth a full accounting of the winding up of the affairs
24 of said district. The secretary of state shall issue to the directors a
25 certificate of dissolution, and shall record said certificate in his office.

26 The ~~state soil conservation commission~~ division of resource
27 conservation shall not entertain petitions for the discontinuance of any
28 district nor conduct elections upon such petitions more often than once in
29 three (3) years.

30 SECTION 33. That Section 67-818, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 67-818. COORDINATION OF POLICY AND PROGRAMS RELATED TO THREATENED
33 SPECIES AND ENDANGERED SPECIES IN IDAHO. (1) There is hereby created in
34 the office of the governor, the "Office of Species Conservation." The
35 administrator of the office of species conservation shall be the official in
36 the state designated to oversee implementation of federal recovery plans,
37 as provided in 16 U.S.C. section 1533(f), and to fulfill the duties provided
38 by this section. The administrator shall be appointed by, and serve at the
39 pleasure of, the governor and shall be subject to confirmation by the state
40 senate.

41 (2) The duties of the office of species conservation shall include:

42 (a) Coordination of all state departments and divisions with duties and
43 responsibilities affecting endangered species, threatened species,
44 candidate species, species petitioned to be listed, and rare and
45 declining species as defined in section 36-2401, Idaho Code;

46 (b) Coordinating state implementation and response to federal recovery
47 plans, biological opinions, guidance and projects among all state and
48 local governments in the state of Idaho;

1 (c) Participation in regional efforts to cooperatively address
2 endangered species, threatened species, candidate and petitioned
3 species, and rare and declining species;

4 (d) Providing input and comment to federal and state agencies, and
5 tribes on issues relating to endangered species, threatened species,
6 candidate and petitioned species, and rare and declining species;

7 (e) Cooperating and consulting with the department of fish and game,
8 the department of lands, the department of water resources, the
9 department of agriculture, and the department of parks and recreation
10 regarding agreements pursuant to 16 U.S.C. section 1533, 16 U.S.C.
11 section 1535 and 16 U.S.C. section 1539;

12 (f) Negotiating agreements with federal agencies concerning
13 endangered species, threatened species, candidate species, petitioned
14 species, and rare and declining species including, but not limited to,
15 agreements pursuant to 16 U.S.C. section 1533(d) and 16 U.S.C. section
16 1539(a), other than those agreements negotiated pursuant to 16 U.S.C.
17 section 1535;

18 (g) Providing the people of the state of Idaho with an ombudsman who
19 can listen to citizens being harmed or hindered by the regulations
20 of the ESA and direct them to the appropriate state or federal agency
21 and/or speak on their behalf, as deemed appropriate by the ombudsman, to
22 address issues or concerns related to the ESA;

23 (h) Serve as a repository for agreements and plans among governmental
24 entities in the state of Idaho for the conservation of rare and
25 declining species, petitioned, candidate, threatened and endangered
26 species.

27 (3) State policy and management plans developed pursuant to this
28 section shall be developed in accordance with the following subsections:

29 (a) State policy on rare and declining, petitioned, candidate,
30 threatened, and endangered species and state management plans shall
31 be developed in consultation with the appropriate state agencies. The
32 appropriate state agency for wildlife and plant management issues is
33 the department of fish and game. The appropriate state agency for
34 timber harvest activities, oil and gas exploration activities and
35 for mining activities is the department of lands. The appropriate
36 state agencies ~~for agricultural activities are~~ is the department of
37 agriculture ~~and the soil conservation commission~~. The appropriate
38 state agency for public road construction is the transportation
39 department. The appropriate state agency for water rights is the
40 department of water resources. The appropriate state agency for water
41 quality is the department of environmental quality. The appropriate
42 state agency for outfitting and guiding activities is the Idaho
43 outfitters and guides licensing board;

44 (b) State management plans shall be the policy of the state of Idaho,
45 but are subject to legislative approval, amendment or rejection by
46 concurrent resolution. State management plans shall be subject to
47 public notice and comment but shall not be subject to judicial review.

48 (4) The governor's office of species conservation shall prepare a
49 report to the legislature recommending a plan to develop state conservation
50 assessments and strategies for rare and declining species in the state of

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1 Idaho and submit that report and recommendation to the legislature. The
2 report and recommendation are subject to legislative approval, amendment or
3 rejection by concurrent resolution.

4 (5) No provision of this section shall be interpreted as to supersede,
5 abrogate, injure or create rights to divert or store water and apply water to
6 beneficial uses established under section 3, article XV of the constitution
7 of the state of Idaho, and title 42, Idaho Code.

8 SECTION 34. Title to all machinery, buildings, lands and property of
9 every kind and nature belonging to the state soil conservation commission
10 shall immediately upon the passage and approval of this act and without
11 further conveyance be vested in the department of agriculture and, as soon as
12 practical, be delivered to the department of agriculture. Also upon passage
13 and approval of this act, all contracts entered into to which the state
14 soil conservation commission is a lawful party shall remain in full force
15 and effect for the period provided in such contracts and the department of
16 agriculture shall be substituted for the state soil conservation commission
17 as party to such contracts.